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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA)	
)	Civil No. 2:09CV378DB
Plaintiff,)	
)	
v.)	COMPLAINT
)	
JON MCBRIDE)	
)	
Defendant.)	
)	
_____)	

The plaintiff, the United States of America (“United States”), through its undersigned counsel, alleges the following:

INTRODUCTION

1. This is a civil action brought by the United States to collect the outstanding unpaid civil penalty assessed against Jon McBride for his failure to report his interest in four

foreign bank accounts, as required by 31 U.S.C. § 5314 and the implementing regulations promulgated thereunder.

AUTHORIZATION FOR SUIT

2. This action is brought pursuant to 31 U.S.C. § 3711 at the direction of the Attorney General of the United States and at the request of, and with the authorization of, the Area Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States.

JURISDICTION AND VENUE

3. Jurisdiction over this action is conferred upon the district court by 28 U.S.C. § 1345.

4. Defendant Jon McBride resides within, and is subject to, the jurisdiction of this Court.

FOREIGN BANK ACCOUNTS

5. McBride had an interest in bank account number XXXXXX-XX7038 at the Royal Bank of Scotland (Bahamas), held in the name of Lombard & Associates, Ltd., which contained a maximum value of \$140,250 during 2000. During 2001, the maximum balance in the account was \$150,132.

6. McBride had an in interest in bank account number XXXXXX-XX3579 at the Royal Bank of Scotland (Bahamas), held in the name of Drehpunkt, Ltd., which contained a maximum value of \$387,389 during 2000. During 2001, the maximum balance in the account was \$736,908.

7. McBride had an interest in bank account number XXXX9 with Global Securities

Corporation (Canada), held in the name of Lombard & Associates, Ltd., c/o Merrill Scott & Associates, which contained a maximum value of \$300,000 during 2000. During 2001, the maximum balance in the account was \$308,377.

8. McBride had an interest in bank account number XXXX350f with TD Evergreen Wealth Management/Toronto Dominion Bank (Canada), held in the name of Phoenix Overseas Advisors Ltd. and Lombard and Associates, which contained a maximum value of \$154,500 during 2000. During 2001, the maximum balance in the account was \$106,662.

9. Section 5314 of Title 31 of the U.S. Code and the implementing regulations promulgated thereunder, requires a person to keep records and file reports when that person maintains a relation with a foreign financial agency. Such reports must be filed with the Internal Revenue Service on Treasury Form TD F 90-22.1, Report of Financial Bank and Financial Accounts ("FBAR"). Section 5321(a)(5) of Title 31 provides for the imposition of civil penalties for willful failure to comply with the reporting requirements of section 5314.

10. McBride willfully failed to file an FBAR to report his interest in the four foreign bank accounts for the 2000 year.

11. McBride willfully failed to file an FBAR to report his interest in the foreign bank accounts for the 2001 year.

**CLAIM FOR RELIEF:
REDUCTION OF CIVIL PENALTIES
AGAINST JON MCBRIDE TO JUDGMENT**

12. On June 11, 2007, a delegate of the Secretary of the Treasury of the United States of America made an assessment against McBride for year 2000, in the amount of \$25,000 for each account identified in Paragraphs 5-8 above, plus interest.

13. On or about June 11, 2007, a delegate of the Secretary of the Treasury of the United States of America gave notice of the assessment to, and made demand for payment of the assessment upon McBride.

14. Despite said notice and demand, McBride has failed, neglected, or refused to pay the amount of the assessment for year 2000.

15. On August 10, 2007, a delegate of the Secretary of the Treasury of the United States of America made an assessment against McBride for year 2001, in the amount of \$25,000 for each account identified in Paragraphs 5-8 above, plus interest.

16. On or about August 13, 2007, a delegate of the Secretary of the Treasury of the United States of America gave notice of the assessment to, and made demand for payment of the assessment upon McBride.

17. Despite said notice and demand, McBride has failed, neglected, or refused to pay the amount of the assessment for year 2001.

18. Interest accrues at a rate of 1% per annum from June 11, 2007. 31 U.S.C § 3717.

19. McBride is liable for a penalty for failing to pay within 90 days in the amount of 6% per annum from June 11, 2007. 31 U.S.C. § 3717(e)(2).

20. As of April 22, 2009, after the application of all abatements, payments and credits, and the inclusion of all interest and penalties, McBride remains indebted to the United States of America, in the amount of \$225,150.69, plus such additional amounts, including interest, which accrued and continue to accrue as provided by law.

WHEREFORE, the United States of America demands:

A. Judgment against defendant, Jon McBride, in the amount of \$225,150.69, plus

such additional amounts, including interest, and penalties, which accrued from April 22, 2009, and continues to accrue as provided by law; and

- B. That the United States shall recover its costs in this action, and be awarded such other and further relief as the Court determines is just and proper.

Dated: April 29, 2009

BRETT L. TOLMAN
United States Attorney

/s/ Jared C. Bennett
JARED C. BENNETT
Assistant United States Attorney

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Attorneys for the United States of America

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Jared C. Bennett, United States Attorney's Office, 185 South State Street, Suite 300, Salt Lake City, Utah 84111-801-325-3259

DEFENDANTS

JON McBRIDE

County of Residence of First Listed Defendant Davis County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
31 U.S.C. 5314
 Brief description of cause:
Action brought to collect unpaid civil penalties for failure to report interest in foreign bank accounts

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 4/29/2009 SIGNATURE OF ATTORNEY OF RECORD /s/Jared C. Bennett

FOR OFFICE USE ONLY
 RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.