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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

IN THE MATTER OF THE TAX  
LIABILITIES OF:

JOHN DOES, United States taxpayers  
who, at any time during the years ended  
December 31, 2005, through December  
31, 2016, held, or had authority to use, a  
Sovereign Gold Card issued by,  
through, or at the direction of,  
Sovereign Management & Legal, Ltd.,  
its predecessors, subsidiaries, and  
affiliates (collectively, “SML”)

CV

MEMORANDUM IN SUPPORT OF  
UNITED STATES’ *EX PARTE*  
PETITION FOR LEAVE TO SERVE  
“JOHN DOE” SUMMONS

The United States of America submits this memorandum in support of its  
petition for an order approving the issuance of an Internal Revenue Service “John  
Doe” summons to Michael Behr for any account information he may possess

related to a credit/debit card called a “Sovereign Gold Card,” issued by Sovereign Management & Legal, LTD (“SML”). Pursuant to 26 U.S.C. (“IRC”) § 7609(h), the Court’s determination to approve the issuance of a John Doe summons “shall be made *ex parte* and shall be made solely on the petition and supporting affidavits.” Thus, the pleadings filed in this proceeding will not be served upon any person or entity and no other filings are permitted from other persons or entities. Accordingly, the matter is ripe for the Court’s consideration. The United States requests that the Court review the petition and supporting documents and enter the proposed order at the Court’s earliest opportunity.

## INTRODUCTION

In an effort to evade their federal tax obligations, U.S. taxpayers often place assets in undisclosed foreign bank accounts in countries known for their financial secrecy. In some cases, taxpayers use shell entities to serve as the nominal owners of these accounts with the hope of further obscuring their interests. Taxpayers who fail to report foreign accounts or the income placed in such accounts are nevertheless liable for federal income taxes. In addition, using these practices to evade one’s reporting and tax obligations is illegal, and taxpayers who do so face the prospect of substantial penalties and criminal prosecution.

While the taxpayers employing such tactics are notoriously – and intentionally – difficult to track, they cannot hide their activity completely.

Critically, their activities are often reflected in business records of legitimate entities. In December 2014, the United States District Court for the Southern District of New York granted the Service the authority to issue “John Doe” summonses to several banks and other entities for information relating to an entity known as SML, which is involved in setting up offshore accounts and companies. *In the Matter of the Tax Liabilities of John Does*, Case no. 1:14-mc-00417-P1 (S.D.N.Y. 2014). The IRS has issued eight summonses pursuant to that order, and has received information about SML through material obtained by these summonses. *See* Declaration of Randy Hoozko (“Decl.”), ¶¶ 40 – 42.

Randy Hoozko is a Senior Revenue Agent in the IRS’s Offshore Compliance Initiatives Program. Decl. ¶ 1. The Offshore Compliance Initiatives Program develops projects, methodologies, and techniques for identifying United States’ taxpayers who are involved in abusive offshore transactions and financial arrangements for tax avoidance purposes. *Id.* Revenue Agent Hoozko has been a revenue agent since 1985, and has specialized in offshore investigations since 2002. *Id.* He has received specialized training in abusive offshore tax issues, and has extensive experience investigating such issues. Decl. ¶¶ 2 – 3.

Revenue Agent Hoozko reviewed data received by the IRS from the “John Doe” summonses issued by the United States District Court for the Southern District of New York described above. Decl. ¶ 41. During that review, he

discovered that Michael Behr, a resident of Bozeman, Montana, was receiving electronic fund transfers from SML through HSBC Hong Kong's correspondent account at HSBC USA. *Id.* Specifically, Mr. Behr received \$115,359.82 in electronic fund transfers that originated from SML from December 3, 2010 through January 15, 2015. *Id.* Further research by Revenue Agent Hoozko disclosed that Mr. Behr describes himself in various on-line posts as managing and maintaining customer accounts and databases related to SML and/or Sovereign Gold Card. Decl. ¶¶ 42 – 46.

The United States brings this *ex parte* proceeding under IRC 7609(f) and (h), for leave to serve an IRS “John Doe” summons upon Mr. Behr. The “John Doe” summons (the “Summons”) seeks: records of customer accounts, orders and fund transfers maintained by Mr. Behr; a complete copy of the Sovereign Gold Card customer database in his possession; all books and records maintained by him on behalf of Sovereign Gold Card and/or SML; all records related to acquiring and processing of Sovereign Gold Card customers; monthly or periodic statements and copies of deposit slips and checks for all accounts used by Sovereign Gold Card customers; all records of wire transactions into and out of Sovereign Gold Card customers' accounts; documents pertaining to all foreign entities established or operated on behalf of each Sovereign Gold Card customer; copies of all communications in whatever form between Mr. Behr and customers of Sovereign

Gold Card and/or SML; copies of all communications in whatever from between Mr. Behr and representatives of Sovereign Gold Card and/or SML; and all other records in his possession related to the business affairs of Sovereign Gold Card and/or SML. This information will allow the United States to determine the identity of the U.S. taxpayers who directly or indirectly hold or held interests in financial accounts at SML. The issuance of this Summons is warranted here because (i) the Summons relates to an ascertainable group or class of persons comprised of U.S. taxpayer customers of Sovereign Gold Card and/or SML; (ii) there is a reasonable basis for believing these U.S. taxpayers failed to comply with internal revenue laws; and (iii) information sufficient to establish these U.S. taxpayers' identities is not readily available to the Service from other sources.

## **BACKGROUND**

### **I. U.S. Tax Laws Require Disclosing Foreign Financial Accounts and Paying Applicable U.S. Taxes**

United States taxpayers with gross income in excess of a minimum threshold amount in any one calendar year are required to file a U.S. Individual Income Tax Return, IRS Form 1040, with the IRS that reports the taxpayer's income from all sources worldwide. Decl. ¶ 53. U.S. taxpayers must also disclose on their Forms 1040 direct or indirect financial interests in, or signature authority over, any foreign financial account and the country in which any such account was located. Decl. ¶ 54. Further, U.S. taxpayers with any such foreign bank account that had an

aggregate value of \$10,000 or more at any time during a particular calendar year are required to file a Report of Foreign Bank and Financial Accounts Form TD F 90-22.1 (“FBAR”) with the Department of the Treasury. Decl. ¶ 55. These FBARs require the U.S. taxpayer completing them to identify the financial institution that held the foreign account, the type of the account (either bank, securities, or other), the account number, and the maximum value of the account during the calendar year at issue. Foreign bank accounts that are not reported to the IRS are known as undisclosed offshore accounts.

In addition, United States taxpayers involved with foreign trusts may be required to file either Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Foreign Gifts (Decl. ¶ 56) and/or Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner (Decl. ¶ 57). Finally, United States taxpayers with an ownership interest in a foreign corporation may be required to file a Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations (Decl. ¶ 58).

## **II. Offshore Tax Evasion and the Use of Prepaid Debit Cards**

Offshore tax evasion almost always involves a foreign financial account, and often involves an offshore entity (such as a corporation, trust, or foundation), or structure of entities. Decl. ¶¶ 6, 60. These entities are used to conceal the U.S. taxpayer’s beneficial ownership of offshore or domestic accounts and assets. *Id.*

The taxpayers often utilize the services of offshore trusts and corporate service providers that: open bank accounts; create corporations, trusts, and foundations; and serve as nominee directors, officers, and/or trustees for the beneficial owner. Decl. ¶¶ 6, 60. Taxpayers with offshore financial accounts often transfer funds from their offshore accounts through the use of prepaid debit cards issued by offshore banks. Decl. ¶¶ 8, 60.

### **III. SML and its Offshore Services**

SML is a multi-jurisdictional offshore service provider that offers comprehensive offshore entity formation and management services through associated Panamanian lawyers as well as through outlets in other jurisdictions such as Belize and Hong Kong. SML has been in the business of offshore incorporations in Nevis since 1996 under the name “Sovereign Management Services, S.A.” Decl. ¶ 9. It established its flagship management and legal services company in Panama in 2002. *Id.* SML appears to operate under several additional names, including Sovereign Management & Legal Realty; Sovereign Law Center; International Corporate Services, Ltd; Belize Offshore Solutions, Limited; and Atlas Corporate & Trust Limited. *Id.* SML has been of interest to the Service for some time because of its internet promotions of services directed at concealing its clients’ beneficial ownership of offshore assets. Decl. ¶ 10.

SML operates a website at [www.offshore-protection.com](http://www.offshore-protection.com). Decl. ¶ 11.

According to SML's website homepage, SML offers a variety of offshore services, including services related to anonymous banking, offshore bank accounts, merchant debit card services and anonymous offshore ATM/debit cards called "Sovereign Gold Cards." Dec. ¶¶ 11, 28 – 31. SML offers formation and administration of anonymous corporations and foundations in Panama and other offshore locations, offshore trusts, international business companies ("IBC"), third-party account signatory services, captive insurance companies, merchant card account services, and prepaid debit cards (i.e., the Sovereign Gold Card). Decl. ¶ 19. SML also offers a variety of services to assist clients in the maintenance and operation of their offshore structures, including mail forwarding, virtual office, and re-invoicing services. *Id.*

SML's "About Us" webpage states that it can offer a "'one-stop-shop' – all protected via attorney-client confidentiality." *Id.* That webpage also states: "Your confidentiality is protected in your dealings with us, whether it be incorporation, assistance with bank account openings, administration or other legal services by strictly observed attorney-client privilege." *Id.* These services are directed at concealing the clients' actual beneficial ownership of their assets. *Id.* For example, on a webpage entitled "Offshore Professional Management," SML lists the appointment of nominee officers and bearer shares as among the devices for

concealing clients' ownership while maintaining complete control of their assets. SML offers to provide these services to its clients. Decl. ¶ 19.

SML's homepage, when last accessed by Revenue Agent Hooczko, listed their most popular offshore company formation options and offshore company-bank account packages, including pricing. Decl. ¶ 21. One of these packages is called a "Panama Corporation owned by Panama Foundation + Bank Account Package," available at a cost of \$3,300. *Id.* This package is described as "an offshore legal structure wherein a Panama Private Interest Foundation or a Panama Charitable Foundation is formed and put in place to act as a shareholder of the IBC. *Id.* Ownership of the IBC is thereby divested to another legal entity (the Panama foundation)." *Id.* That webpage goes on to explain "[t]his puts ownership into the hands of another legal entity, away from the actual beneficial owner." *Id.* An additional benefit touted with this package is the use of a charitable beneficiary, advising that "setting up offshore foundations and trusts, whose primary aim appears to be philanthropic, is a savvy and indeed 'politically correct' way to organize one's offshore assets, even if only a little actually goes to the charity." *Id.*

Another option listed is a "Hong Kong Corporation + Corporate Bank Account Package for \$2,850. *Id.* This package offers anonymous corporations with an account "plus nominee director and shareholder service for complete

anonymity.” *Id.* SML advises that the “bullet proof” anonymous corporation, combined with a “Panama foundation” package, allows for direct control of the company through the foundation. *Id.* SML suggests that “[c]ompany income can be ‘donated’ into the foundation and the foundation used for a myriad of purposes.” *Id.* The package includes pre-paid debit card and credit card options. *Id.*

SML also offers a so-called “Ready-to-go SHELF Corporation with Bank Account” package for \$2,975. *Id.* These companies are advertised as being available with the use of existing nominee directors, each providing undated signed resignations. *Id.* In Revenue Agent Hoozka’s experience, the use of “shelf” or previously formed corporations is a common practice in offshore tax evasion schemes, designed to create the false impression that the offshore entity was in business prior to the beneficial owner’s involvement. *Id.*

Many of the packages offered by SML involve various combinations of bank accounts owned by entities, which are in turn owned by other entities, all in different jurisdictions and all controlled by nominees on behalf of the true beneficial owner. Decl. ¶ 22. The point of such an arrangement is described on SML’s “Offshore Asset Protection” website in an article entitled “Breaking the Paper Trail,” which explains that “[t]he banking secrecy in the first jurisdiction will prevent investigators [from] discovering the ultimate destination of the funds

in the second jurisdiction.” *Id.* SML further states that its services “[h]elp you avoid foreign account reporting requirements that many countries now have (such as the USA and Germany)” and that “it is unlikely, unless you are careless, that such information will ever reach the authorities.” Decl. ¶ 23. While claiming to be “removed” from the foreign assets or entities, the beneficial owner in fact retains control through, for example, side agreements with the service provider. *Id.*

SML’s “Offshore Account Signatory Services” webpage states that SML “can act as a trusted third party that can retain control of the accounts on behalf of the beneficial owner.” *Id.* This service is described as providing the beneficial owner “with the needed extra element of removal from your assets, so that your official legal capacity is one of a ‘behind the scenes advisor’ only. You neither own nor ‘control’ the assets in any function. Also, you are not named as a beneficiary in any way.” *Id.* In such arrangements, the reality is that the beneficial owner, while claiming to be “removed” from the foreign assets or entities, in fact retains control over such assets or entities, in fact retains control over such assets or entities through other means. *Id.*

SML’s “Panama Private Interest Foundation” webpage offers “new and ready-made foundation packages either with or without bank accounts.” Decl. ¶ 24. The webpage touts foundations as a way to avoid tax reporting with respect to controlled foreign corporations (“CFCs”). *Id.* SML acknowledges that some

countries, such as the United States, have strict CFC rules requiring that citizens declare to the taxing authorities that they are shareholders of CFCs. *Id.* SML thus offers a service whereby the taxpayer establishes a foundation in Panama that holds or owns the CFC shares, thereby removing ownership from the taxpayer's name, and, purportedly, allowing the taxpayer to avoid CFC reporting requirements. *Id.*

SML also offers a "Mail Receiving and Forwarding" service designed to "compliment the proper establishment of [its clients] corporate offshore identity." Decl. ¶ 25. SML establishes a physical address for the receipt of packages from courier services such as FedEx or DHL, and a post office box in Miami or Panama City for receipt of mail. *Id.*

SML's webpage entitled "Banking and Investing" discusses means of maintaining the secrecy of its clients' offshore bank accounts. Decl. ¶ 26. SML warns that moving funds in and out of an offshore account in one's personal name "creates records that associate your name with the account" and "broadcast to the world" that you are the owner of the account. *Id.* SML advises that through its services, "your account will be anonymous to the world, so long as you bank in a country that still does not routinely share information with foreign governments and private investigators." *Id.* The goal, according to the website, is "keeping an

‘arms length [sic] from assets while still giving [the clients] the ability to make decisions on their deployment.’ *Id.*

SML also advises clients on repatriating untaxed offshore funds without tax liability. Decl. ¶ 27. The “clandestine way,” according to SML, is to use an offshore debit card to draw funds from an ATM, but the disadvantage is that the client would be unable to “show some income to justify [the client’s] lifestyle.” *Id.* SML thus advises clients to treat the “e-commerce business” as a “secondary income stream” that allows for the building up of “an offshore nest egg.” *Id.*

Nevertheless, SML provides offshore prepaid debit cards, also known as stored value cards, through a “Sovereign Gold Card.” Decl. ¶ 28. SML describes the advantages of the Sovereign Gold Card, including that such cards are “no name/anonymous,” “accepted worldwide,” and “private and confidential.” *Id.* Clients may load cards by wire, by Western Union transfer, or by a check drawn on a U.S. bank, payable to SML, and sent by FedEx, DHL, UPS, or postal mail to a Miami address. Decl. ¶ 29.

While SML offers its services to clients worldwide, its website targets U.S. taxpayers. Decl. ¶ 30. SML’s website is presented in English, and its “Contact Us” webpage includes a U.S. telephone number and a U.S. fax number (no other fax numbers are provided despite telephone numbers in other countries). *Id.* On

its “Mail Forwarding” webpage, mail forwarding services are offered in Miami in addition to Panama City, Panama. *Id.*

Similarly, SML’s Sovereign Gold Card website also targets U.S. taxpayers. The Sovereign Gold Card website and webpages are presented in English and lists a U.S. telephone number, a U.S. fax number, and U.S. addresses for courier and postal delivery. Decl. ¶ 31.

### Operation Adam Bomb

Criminal enterprises have used the products offered by SML, including debit cards such as the Sovereign Gold Card. In May 2011, the Drug Enforcement Administration (“DEA”) advised the Service of an ongoing investigation of online narcotics trafficking known as “Operation Adam Bomb.” Decl. ¶ 12. Among other things, the investigation focused on the movement of money through SML – controlled accounts in Panama to pre-paid debit card accounts accessible to drug traffickers. *Id.* DEA learned during its investigation that SML and its U.S. customers were attempting to conceal funds from revenue authorities. *Id.*

In April 2012, DEA made an arrest of a key defendant in Operation Adam Bomb, and the indictment of that defendant was unsealed in *United States v. Willems, et al.*, Case No. 2:11-cr-01137-DMG (C. D. Cal.) (“Willems”). Decl. ¶ 13. According to the indictment, defendant Willems instructed customers wishing to purchase controlled substances from online marketplaces to send payments via

Western Union to SML accounts in Bucharest. Decl. ¶ 17. SML would then transfer the funds to a pre-paid debit card accessible to Willems. *Id.* DEA documented hundreds of such transactions involving hundreds of thousands of dollars. *Id.* In September 2014, Willems pled guilty to drug trafficking and money laundering charges. *Id.* On November 19, 2014, he was sentenced to thirty seven months in prison. *Id.*

The IRS also learned from DEA of other U.S. taxpayers who were using SML to facilitate criminal activity and conceal revenue from the Service. Decl. ¶ 18.

#### Tax Non-Compliance by a Known SML Client

The IRS's Criminal Investigation Division ("IRS CI") has a longstanding practice known as the Voluntary Disclosure Practice, which takes timely, accurate, and complete voluntary disclosures into account when deciding whether to recommend criminal prosecution to the U.S Department of Justice. Decl. ¶ 32. This Program enables noncompliant taxpayers to resolve their tax liabilities and minimize their chances of criminal prosecution. *Id.*

On March 23, 2009, the IRS announced a voluntary disclosure program designed to bring into compliance U.S. taxpayers that used undisclosed foreign accounts and/or entities to avoid or evade taxation. Decl. ¶ 33. This program, known as the 2009 Offshore Voluntary Disclosure Program ("2009 OVDP"), ran

from March 23, 2009 through October 15, 2009. *Id.* By entering and qualifying for the 2009 OVDP, taxpayers were required to file all original and amended returns and pay all taxes, interest and penalties, to include a 20% penalty. *Id.* The IRS subsequently opened other voluntary disclosure initiatives, with higher predetermined penalties. Decl. ¶¶ 34 – 35.

Revenue Agent Hoozka searched the databases related to these voluntary disclosure programs for evidence of SML's involvement with offshore tax evasion. Decl. ¶ 36. This search revealed one U.S. taxpayer who acknowledged using SML's services to set up an undeclared scheme of accounts and structures. *Id.* Specifically, this taxpayer, from 2006 – 2011, formed 7 offshore entities as part of a scheme to avoid U.S. taxation. *Id.* SML was involved in the formation of two of these entities. *Id.* In an interview with IRS CI, this taxpayer admitted that both these SML entities were issued offshore prepaid Sovereign Gold Cards without the taxpayer's name in order to facilitate this scheme. Decl. ¶¶ 37 – 38.

#### **IV. The Sovereign Gold Card Summons**

The IRS is now investigating United States taxpayers who used the services of SML to establish, maintain, operate, or control any foreign financial account or other asset; any foreign corporation, company, trust, foundation or other legal entity; or any foreign or domestic financial account or other asset in the name of such foreign entity. Decl. ¶¶ 4, 39.

Pursuant to IRS §§ 7609(f) and (h), the Service was authorized on December 19, 2014, by the United States District Court for the Southern District of New York to serve “John Doe” summonses on eight institutions in connection with SML. *In the Matter of the Tax Liabilities of John Does*, 1:14-mc-00417-P1 (S.D.N.Y. December 19, 2014) (“the SML Summons”); Decl. ¶ 40. Pursuant to that authority, the Service on January 6, 2015, served the following eight entities with “John Doe” summonses consistent with the district court’s order: Federal Express Corporation; FedEx Ground Package System, Inc.; DHL Express; United Parcel Service, Inc.; Western Union Financial Services, Inc.; Federal Reserve Bank of New York; The Clearing House Payments Company LLC; and HSBC Bank USA, National Association. Decl. ¶ 41.

During his review of the data provided in response to the SML “John Doe” summonses, Revenue Agent Hoozko discovered that an individual named Michael Behr had received electronic fund transfers related to SML and/or the Sovereign Gold Card. Decl. ¶ 42. Specifically, he discovered that Michael Behr had received \$115,359.82 in electronic fund transfers that originated from SML starting on December 3, 2010 through January 15, 2015. *Id.* Revenue Agent Hoozko then conducted internet research to substantiate whether Mr. Behr had a connection to SML. Decl. ¶ 43. Revenue Agent Hoozko discovered that on Mr. Behr’s “LinkedIn” webpage, Mr. Behr states that he is employed by Sovereign

Gold Card, a “Panama based company,” as an “Account Administrator/Customer Support (part time),” and cites to <http://sovereigngoldcard.com>. *Id.* Mr. Behr further states on his LinkedIn page that his duties and responsibilities for Sovereign Gold Card include the administration of customer accounts and the maintenance and management of a customer database. Decl. ¶¶ 43 – 44.

Revenue Agent Hoozko also discovered that Mr. Behr’s resume is listed at [www.indeed.com](http://www.indeed.com), which is a website that allows users to post their resumes than can then be searched by viewers. Decl. ¶ 46. Mr. Behr’s resume reflects he has been an “Account Administrator” for Sovereign Gold Card from September 2010 to the present in Bozeman, Montana. *Id.* On his resume, Mr. Behr again asserts that he administers customer accounts and manages and maintains a customer database. *Id.* Revenue Agent Hoozko also discovered that Mr. Behr lives in Bozeman, Montana. Decl. ¶ 47.

To further its investigation and the identification of U.S. taxpayers who are concealing offshore assets, the Service through the summons at issue is seeking information that will allow it to identify U.S. taxpayer clients of SML who have not disclosed the existence of offshore assets, accounts, and/or entities. Based on Mr. Behr’s involvement with the Sovereign Gold Cards issued by SML, the IRS has concluded he is likely to have information that can assist the IRS in identifying U.S. taxpayers who used SML’s Sovereign Gold Card services to conceal assets

and income from the IRS. Decl. ¶ 48. Because he acquires and processes new customers, administers customer accounts, processes orders and transfers funds, manages and maintains customer databases, keeps track of account balances and purchases, resolves customer issues, posts payments, is involved with client billing, and uses Excel spreadsheets for data entry, Mr. Behr has access to the very records and information that will identify SML's Sovereign Gold Card users. *Id.*

Mr. Behr should have access to SML's Sovereign Gold Card customer identification information since he is involved in acquiring and processing new customers. *Id.* Customer identifying information such as U.S. addresses and telephone numbers entered into Excel spreadsheets can be searched to identify SML's Sovereign Gold Card customers who are U.S. taxpayers. *Id.* Mr. Behr should have information that will reveal SML's Sovereign Gold Card customer account balances and where customer accounts are located worldwide given that he keeps track of account balances and assists with fund transfers. *Id.* Mr. Behr should have access to other transactional information that will identify SML's Sovereign Gold Card customers since he processes orders, keeps track of purchases, posts payments, and is involved with client billing. *Id.* Client billing information may reveal offshore entities such as trusts, foundations, and corporations beneficially owned by SML's Sovereign Gold Card customers. *Id.* Finally, Sovereign Gold Card account application information may reveal offshore

prepaid debit cards in the name of undisclosed offshore entities beneficially owned by SML's Sovereign Gold Card customers and used to conceal assets and income from the IRS. *Id.*

In sum, by analyzing the information sought in the summons, the Service is likely to discover the identities of U.S. taxpayer clients of SML and/or Sovereign Gold Card that are engaged in the practice of hiding assets in offshore entities with the intention of avoiding taxation on those assets.

## **ARGUMENT**

### **The Summons Meets the Requirements for an IRS “John Doe” Summons**

One of the primary functions of the IRS is to review and audit tax returns submitted by U.S. taxpayers to ensure that all applicable taxes have been paid. Accordingly, IRC § 7601 requires the Secretary of the Treasury to “cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax.” IRC § 7601. To aid the IRS in carrying out this function, Section 7602 authorizes the Secretary to summons records and testimony that may be relevant or material to an investigation. IRC § 7602. Specifically, Section 7602, from which the IRS derives its principal information-gathering powers, authorizes the IRS:

[f]or the purpose of ascertaining the correctness of any return, making a return where none has been made, [or]

determining the liability of any person for any internal revenue tax . . . [t]o summon . . . any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for the tax . . . , or any other person the Secretary may deem proper, to appear . . . and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry.

IRC § 7602.

In passing Section 7602, Congress intended “to provide the Secretary with broad latitude to adopt enforcement techniques helpful in the performance of his tax collection and assessment responsibilities. *United States v. Euge*, 444 U.S. 707, 715 N. 9 (1980). Indeed, the Supreme Court has noted that Section 7602 forms the “centerpiece” of the Service’s “expansive information-gathering authority.” *United States v. Arthur Young & Co.*, 465 U.S. 805, 816 (1984). “Under 26 U.S.C. § 7602, the IRS has wide latitude to issue a summons for investigatory purposes.” *Reiserer v. United States*, 479 F.3d 1160, 1166 (9<sup>th</sup> Cir. 2007) (citing *United States v. Jose*, 131 F.3d 1325, 1327 (9<sup>th</sup> Cir. 1997) (en banc)). “To establish a need for judicial enforcement, this showing need only be minimal . . . [T]he statute must be read broadly in order to ensure that the enforcement powers of the IRS are not unduly restricted.” *Jose*, 131 F. 3d at 1327 – 28 (quoting *Liberty Fin. Servs. v. United States*, 778 F.2d 1390, 1392 (9<sup>th</sup> Cir. 1985)); see also *Arthur Young*, 465 U.S. at 816 (“the very language of § 7602 reflects . . . a

congressional policy choice *in favor of disclosure* of all information relevant to a legitimate IRS inquiry. In light of this explicit statement by the Legislative Branch, courts should be chary in recognizing exceptions to the broad summons authority of the IRS”) (emphasis in original).

The Service’s authority to issue “John Doe” summonses to banks and others to discover the identity of individuals who may have failed to disclose all of their income was expressly recognized by the Supreme Court in *United States v. Bisceglia*, 520 U.S. 141 (1975). Congress later added IRC § 7609(f), which provides, as to “John Doe” summonses:

Any summons . . . which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that –

- (1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,
- (2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law;
- (3) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

IRC § 7609(f). A court’s determination as to whether the Service has met the requirements under IRC § 7609 for the issuance of a “John Doe” summons “shall be made ex parte and shall be made solely on the petition and supporting affidavits.” IRC § 7609(h)(2).

Here, the Court should authorize the issuance of the Summons because all three statutory prerequisites have been met. First, the Summons relates to the investigation of an ascertainable group or class of persons, namely, U.S. taxpayers who, at any time during the years ending December 31, 2005 through December 31, 2015, held, or had authority to use, a Sovereign Gold Card issued by, through, or at the direction of SML. Second, there is a reasonable basis for believing that U.S taxpayers who held an interest in any such account failed to declare the account and/or the income related to it to the IRS, thereby violating one or more provisions of the internal revenue laws. Third, the information sought is not readily available to the Service from other sources. Each of these factors will be discussed in depth below.

### **I. The Investigation Concerns an Ascertainable Class**

The Summons here relates to an investigation of an ascertainable group of people, which the Summons defines as follows:

John Does, United States taxpayers who, at any time during the years ended December 31, 2005, through December 31, 2015, held, or had authority to use, a Sovereign Gold Card issued by, through, or at the

direction of, Sovereign Management & Legal, Ltd., its predecessors, subsidiaries, and affiliates (collectively, “SML”).

Summons, p. 1. In other words, the Summons relates to the Service’s investigation of U.S. taxpayers with accounts at SML that involve the use of the Sovereign Gold Card prepaid debit card. This class of persons is therefore distinct from the general public by their characteristics of being U.S. taxpayers who held or had authority to use SML’s Sovereign Gold Card.

This is sufficient to establish that the Summons relates to an ascertainable group of persons. *See In the Matter of the Tax Liabilities of John Does*, Case No. 1:14-mc-00417-P1 (S.D.N.Y. 2014); (persons involved with SML transactions at any time during the years ended December 31, 2004 through December 31, 2012); *In re Tax Liabilities of John Does (UBS AG)*, Case No. 13-mc-0021 (S.D.N.Y. 2013) (persons identified as U.S. taxpayers who directly or indirectly had interests in or signatory or other authority with respect to any financial accounts maintained, monitored by, or managed through Swiss bank Wegelin & Co.); *In re Tax Liabilities of John Does Who from December 31, 2002 through December 21, 2010 had Interests in Financial Accounts Managed through HSBC India*, Case No. 11-cv-1686 (LB) (N.D. Cal. 2011) (U.S. taxpayers who at any time during the years ended December 2002 through December 31, 2010, directly or indirectly had interests in or signature or other authority with respect to any financial accounts

maintained at, monitored by, or managed through HSBC India); *In re Tax Liabilities of John Does*, 2003 WL 22953182, at \*1, Case No. 03-22793-CIV (S.D. Fla. Oct. 30, 2003) (holding that IRS investigation related to an ascertainable group of people where summons identified class as U.S. taxpayers who between 1997 and 2003 sold credit insurance policies where the policies were reinsured with entities in the Turks and Caicos Islands). Each of those cases involved similarly described classes of persons, and in each case the court found those persons constituted an ascertainable class. Copies of each of these orders are attached as exhibits to this memorandum.

Here, similarly, the IRS has established that the investigation underlying the Summons relates to an “ascertainable group or class of persons” as required by IRC § 7609(f).

## **II. There is a Reasonable Basis to Believe that the Unknown Persons May Fail, or May Have Failed, to Comply with the Internal Revenue Laws**

The IRS has a reasonable basis to believe that the unknown individuals who comprise the group of persons set forth in the Summons failed or may have failed to comply with provisions of the internal revenue laws. When enacting Section 7609(f), Congress did “not intend to impose an undue burden on the [IRS] in connection with obtaining a court authorization to serve this type of summons.” H. Rep. No. 940658, 94<sup>th</sup> Cong., 1<sup>st</sup> Sess., at 311. Accordingly, to meet the “reasonable basis” prong, the Service need only show that a transaction has

occurred that is “of such a nature as to be reasonably suggestive of the possibility that the correct tax liability with respect to that transaction may not have been reported.” *Id.* Courts, therefore, have interpreted this requirement narrowly as intended only “to prevent the Service from exercising its summons power in an arbitrary or quixotic manner.” *In re Tax Liabilities of John Does, Members of the Columbus Trade Exchange in the Years 1977 and 1978*, 671 F.2d 977, 980 (6<sup>th</sup> Cir. 1982).

Here, based on the IRS’s experience, U.S. taxpayers have made use of offshore accounts such as the accounts established by SML and accessed by the Sovereign Gold Card of such a nature as to reasonably suggest the possibility that correct tax reporting of transactions has not occurred. Decl. ¶¶ 59 - 63. Specifically, based on his experience, Revenue Agent Hooczko has concluded that some U.S. taxpayers may be using the Sovereign Gold Card to avoid U.S. tax laws by holding those Cards in the name of offshore shell entities. Decl. ¶ 59. Indeed, SML advertises just such services on its website. *Id.* Because these efforts have prevented the IRS from obtaining the identities and addresses of these U.S. taxpayers, it cannot yet conduct audits or investigations to determine if those taxpayers have fulfilled their possible reporting requirements.

In addition to Revenue Agent Hooczko’s general experience and the material contained on SML’s own websites, the IRS has concrete evidence that

SML's services have been used by U.S. taxpayers to evade the tax laws. Specifically, those services have been used to hide funds used in criminal enterprises (Decl. ¶¶ 12 – 18), and in at least one case as part of a scheme to hide offshore assets (Decl. ¶¶ 32 – 38). As noted by Revenue Agent Hooczko, the activities described by SML on its website, and confirmed through evidence, are the hallmarks of offshore tax evasion. Dec. ¶ 60.

It is the experience of the IRS that there is a direct correlation between unreported income and the lack of visibility of that income to the IRS. *Id.* This experience supports the IRS's belief that U.S. taxpayers with offshore accounts who hold or have authority to use Sovereign Gold Cards to access offshore accounts may not be complying with the internal revenue laws of the United States. *Id.* Accordingly, the information submitted herewith is sufficient to establish that the IRS has a reasonable basis for investigating the group of unknown persons included in the Summons. *See, e.g., United States v. Ritchie*, 15 F. 3d 592, 601 (6<sup>th</sup> Cir. 1994) (clients' payment for legal services with large amounts of cash provided a reasonable basis to issue a "John Doe" summons); *United States v. Kersting*, 891 F.2d 1407 (9<sup>th</sup> Cir. 1989) ("John Doe" summons enforced after district court found the existence of at least one case in which the Tax Court found some of Kersting's programs to be abusive of the tax code); *United States v. Pittsburgh Trade Exchange, Inc.*, 644 F.2d 302, 306 (3d Cir 1981)

(IRS agent’s testimony that transactions of the type the summoned party arranged for its clients were “inherently susceptible . . . to tax error” sufficient to meet reasonable basis prong).

Here, as Revenue Agent Hoozko’s Declaration demonstrates, the IRS not only has a suspicion that the “John Doe” class includes U.S. taxpayers who are not complying with the law; it knows that the class very likely includes such violators. Decl. ¶¶ 12 – 18; 59 – 63. Therefore, the United States has established that a reasonable basis exists to believe that one or more members of the “John Doe” class may have failed to comply with one or more requirements of the internal revenue laws.

### **III. The Information Sought About the “John Doe” Class Is Not Readily Available from Other Sources**

Finally, the information the IRS is seeking through the Summons is not readily available to it from any other sources. The summons is limited to information pertaining to the issuance and use of SML’s Sovereign Gold Cards from Panama. Michael A. Behr is the only known source of information pertaining to SML’s Sovereign Gold Card business in the United States. Decl. ¶ 64.

Therefore, based on his knowledge and experience, and the available evidence, Revenue Agent Hoozko has concluded that the only repository of the information sought by the proposed summons that is readily available is Michael A. Behr.

Decl. ¶ 65.

The identities of individuals is information that is not readily available to the IRS when those identities are known to third parties who “are not required to identify” them to the IRS. *United States v. Liebman*, 742 F. 2d 807, 808 (3d Cir. 1984). In *Liebman*, the Third Circuit held that the IRS could not readily access the names of all clients of a law firm who deducted from their taxes legal fees paid in connection with the acquisition of certain tax shelters from any source other than the law firm itself, including the IRS’s own tax records, because “taxpayers who deduct legal fees are not required to identify the recipients.” *Id.* Here, the very need for the “John Doe” summons is premised on the fact that U.S. taxpayer customers of SML’s Sovereign Gold Card – although required to do so – failed to disclose the identity of their offshore accounts to the IRS and, therefore, remain unknown to the IRS.

The fact that the IRS was alerted to the existence of a class of person reasonably likely to be violating internal revenue laws from one source (here, the SML “John Doe” summonses issued to the eight entities discussed above) does not establish that the identities of the individuals in that class are readily available to the IRS from that same source. *See In re Tax Liabilities of John Does Who Sold Credit Insurance Policies*, 2003 WL 22953182 at \*1 (S.D. Fla. Oct. 30, 2003). In that case, an informant had alerted the IRS “to the existence of a class of persons engaged in transactions as subsidiaries of [American Bankers Insurance Group,

Inc. (“ABIG”)] that are violative of internal revenue law.” *Id.* The court noted, however, that despite having been alerted to the existence of the class, the identity of the members of that class was “not readily available through a means other than from [ABIG] itself.” *Id.* Here, similarly, although the United States knows that a group of U.S. taxpayer-clients of SML using Sovereign Gold Cards almost certainly exists, the IRS cannot readily establish the identity of the members of that group of individuals from any source other than Mr. Behr.

Indeed, courts have routinely recognized that the identities of U.S. taxpayers whom the IRS reasonably believed were using foreign financial and credit/debit card accounts to avoid complying with the internal revenue laws are not readily available from sources other than the person or financial institutions involved. For example, on October 30, 2000, the Southern District of Florida issued an order authorizing the service of “John Doe” summonses upon American Express and MasterCard International, Inc. *In re Tax Liabilities of John Does Who During the Years Ended December 31, 1998 and 1999, Had Signatory Authority over American Express or Master Card Credit, Charge of Debit Cards*, Case No. 00-cv-3919 (S.D. Fla. Oct. 30, 2000). In that case, the IRS sought authorization to issue “John Doe” summonses on American Express Travel Related Services Co. (“AmEx”) and MasterCard International (“MasterCard”) seeking account records establishing the identity of U.S. taxpayers who held an interest in AmEx or

MasterCard credit, charge or debit cards issued by or through, or for which payment was received from, banks or other financial institutions in Antigua, Barbuda, the Bahamas or the Cayman Islands. *Id.* The court held that the identities of the relevant U.S. taxpayers was not “readily available” from any sources other than AmEx and MasterCard, including the issuing offshore banks. *Id.* See also *In re HSBC India*, Case No. 11-CV-1686 (N.D. Cal. Apr. 7, 2011) (authorizing the issuance of a “John Doe” summons on HSBC India seeking financial account records establishing the identities of U.S. taxpayers with Indian bank accounts); *In re Tax Liabilities of John Does Who During the Years Ended December 31, 1999 through December 31, 2001, Had Signature Authority over MasterCard Payment Cards*, Case No. 02-22404 (S.D. Fla. Aug. 20, 2002) (authorizing service of a “John Doe” summons seeking the identity of U.S. taxpayers who held certain credit card accounts with ties to foreign banks upon MasterCard);. Copies of each of these orders are attached as exhibits to this memorandum.

The facts in this case are nearly identical to these other cases. The identities of U.S. taxpayer customers of SML who are using the Sovereign Gold Card to assist them in violating the internal revenue laws are not reasonably available from any other source that Mr. Behr.

## CONCLUSION

The United States has shown that the IRS has met the requirements of IRC § 7609(f) in order to be allowed to serve its “John Doe” summons. Accordingly, the United States’ Petition should be granted.

Respectfully submitted this 11<sup>th</sup> day of January, 2017.

CAROLINE D. CIRAULO  
Principal Deputy Assistant Attorney General

/s/Rick Watson  
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USDC SDR  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/19/14

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN THE MATTER OF THE TAX  
LIABILITIES OF:

JOHN DOES, United States taxpayers who, at any time during the years ended December 31, 2005, through December 31, 2013, used the services of Sovereign Management & Legal, Ltd., its predecessors, subsidiaries, and affiliates (collectively SML), to establish, maintain, operate, or control any foreign financial account or other asset; any foreign corporation, company, trust, foundation or other legal entity; or any foreign or domestic financial account or other asset in the name of such foreign entity.

Case No. **14 MISC 00417**

**[PROPOSED] ORDER  
GRANTING EX PARTE  
PETITION FOR LEAVE TO  
SERVE "JOHN DOE"  
SUMMONSES**

THIS MATTER is before the Court upon the United States of America's *Ex Parte* Petition for Leave to Serve "John Doe" Summonses (the "Petition"). Based upon on a review of the Petition and supporting documents, the Court has determined that the "John Doe" summonses to Federal Express Corporation a/k/a FedEx Express; FedEx Ground Package System, Inc. a/k/a FedEx Ground; DHL Express; United Parcel Service, Inc.; Western Union Financial Services, Inc.; the Federal Reserve Bank of New York; Clearing House Payments Company LLC; and HSBC Bank USA, National Association, relate to the investigation of an ascertainable group or class of persons, that there is a reasonable basis for believing that such group or class of persons has failed or may have failed to comply with any provision of any internal revenue laws, and that the information sought to be obtained from the examination of the records or testimony (and



the identities of the persons with respect to whose liability the summonses are issued) are not readily available from other sources. It is therefore:

ORDERED AND ADJUDGED that the Internal Revenue Service, through Revenue Agent Randy Hoozko or any other authorized officer or agent, may serve Internal Revenue Service "John Doe" summonses upon Federal Express Corporation d/b/a FedEx Express; FedEx Ground Package System, Inc. a/k/a FedEx Ground; DHL Express; United Parcel Service, Inc.; Western Union Financial Services, Inc.; the Federal Reserve Bank of New York; Clearing House Payments Company LLC; and HSBC Bank USA, National Association, in substantially the form as attached as Exhibits A-H of the Declaration of Randy Hoozko. A copy of this Order shall be served together with each summons.

SO ORDERED this 18th day of December, 2014.



HON. VERNON S. BRODERICK  
United States District Judge (Part One)

Copy to:

Joseph N. Cordaro  
Assistant United States Attorney  
United States Attorney's Office  
Southern District of New York  
86 Chambers Street, 3rd Floor  
New York, New York 10007

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

1/29/2013

----- X  
IN THE MATTER OF THE TAX  
LIABILITIES OF:

JOHN DOES, United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2011, directly or indirectly had interests in or signature or other authority (including authority to withdraw funds; trade or give instructions or receive account statements, confirmations, or other information, advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through Wegelin & Co. and financial accounts maintained at, monitored by, or managed through other Swiss financial institutions that Wegelin & Co. permitted to transact client business through its United States correspondent account at UBS AG.

Case No. 13 mc 21

~~PROPOSED~~ ORDER GRANTING  
EX PARTE PETITION FOR  
LEAVE TO SERVE "JOHN DOE"  
SUMMONS

ECF Case

----- X  
THIS MATTER is before the Court upon the United States of America's "Ex Parte Petition for Leave to Serve "John Doe" Summons (the "Petition"). Based upon a review of the Petition and supporting documents, the Court has determined that the "John Doe" summons to UBS AG relates to the investigation of an ascertainable group or class of persons, that there is a reasonable basis for believing that such group or class of persons has failed or may have failed to comply with any provision of any internal revenue law, and that the information sought to be obtained from the examination of the records or testimony (and the identities of the persons with respect to whose liability the summons is issued) are not readily available from other sources. It is therefore:

ORDERED AND ADJUDGED that the Internal Revenue Service, through Revenue Agent Cheryl Kiger or any other authorized officer or agent, may serve an Internal Revenue Service "John Doe" summons upon UBS AG in substantially the form as attached as Exhibit E to



the Declaration of Cheryl Kiger. A copy of this Order shall be served together with the summons.

SO ORDERED this 25<sup>th</sup> day of January, 2013.

  
WILLIAM H. PAULEY  
UNITED STATES DISTRICT JUDGE  
*Part I Judge*

Copy to:

Natalie N. Kuehler  
Assistant United States Attorney  
U.S. Attorney's Office  
for the Southern District of New York  
86 Chambers Street, 3rd Floor  
New York, New York 10007

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2 STUART D. GIBSON (MnSBN 34587)  
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5 Tel: (202) 307-6586  
Fax: (202) 307-2504  
6 Attorneys for United States of America

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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

7 UNITED STATES DISTRICT COURT  
8  
9 NORTHERN DISTRICT OF CALIFORNIA  
10  
11 SAN FRANCISCO DIVISION

12 IN THE MATTER OF THE TAX  
LIABILITIES OF:

CV Case No. 11

1686

LB

13 JOHN DOES, United States taxpayers, who )  
14 at any time during the years ended December )  
31, 2002 through December 31, 2010, )  
15 directly or indirectly had interests in or )  
signature or other authority (including )  
16 authority to withdraw funds; trade or give )  
instructions or receive account statements, )  
17 confirmations, or other information, advice )  
or solicitations) with respect to any financial )  
18 accounts maintained at, monitored by, or )  
19 managed through The Hongkong and )  
Shanghai Banking Corporation Limited in )  
20 India (HSBC India). )  
21

[PROPOSED] ORDER  
GRANTING *EX PARTE*  
PETITION FOR LEAVE TO  
SERVE "JOHN DOE" SUMMONS

22  
23  
24 THIS MATTER is before the Court upon the United States of America's "*Ex Parte*  
25 Petition for Leave to Serve John Doe Summons." Based upon a review of the Petition and exhibits  
26 thereto, the Court has determined that the "John Doe" summons to HSBC Bank USA, N.A. relates

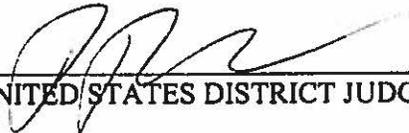
27 [Proposed] Order Granting *Ex Parte* Petition for Leave to Serve "John Doe" Summons  
28 Page 1



1 to the investigation of an ascertainable group or class of persons, that there is a reasonable basis for  
2 believing that such group or class of persons may fail or may have failed to comply with any  
3 provision of any internal revenue law, and that the information sought to be obtained from the  
4 examination of the records or testimony (and the identities of the persons with respect to whose  
5 liability the summons is issued) are not readily available from other sources. It is therefore—

7 ORDERED AND ADJUDGED that the Internal Revenue Service, through Revenue Agent  
8 Daniel Reeves or any other authorized officer or agent, may serve an Internal Revenue Service “John  
9 Doe” summons upon HSBC Bank USA, N.A. in substantially the form as attached as Exhibit A to  
10 the Declaration of Daniel Reeves. A copy of this Order shall be served together with the summons.

12 DONE AND ORDERED this 7 day of April, 2011.

14  
15   
UNITED STATES DISTRICT JUDGE

16 Copies furnished to:

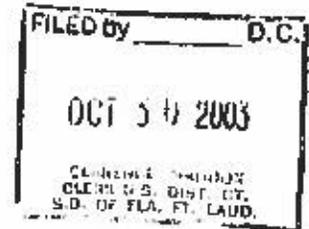
17 Stuart D. Gibson  
18 Senior Litigation Counsel  
19 Tax Division  
20 U.S. Department of Justice  
21 P.O. Box 403  
22 Washington, DC 20044

23 Melinda L. Haag  
24 United States Attorney  
25 Northern District of California  
26 Philip Burton United States Courthouse  
27 450 Golden Gate Avenue  
28 San Francisco, CA 94102

Phyllis J. Hamilton  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-22793-CIV-ZLOCH



IN THE MATTER OF THE TAX  
LIABILITIES OF:

JOHN DOES, United States  
taxpayers who, during any part  
of the period January 1, 1997  
through July 1, 2003, sold  
credit insurance policies as  
agents for subsidiaries of  
American Bankers Insurance  
Group, Inc., where such  
policies were reinsured with  
entities in the Turks and  
Caicos Islands

ORDER

THIS MATTER is before the Court pursuant to Petitioner, United States of America's Ex Parte Petition For Leave To Serve "John Doe" Summons (DE 1). The Court has carefully reviewed said Petition, the entire court file and is otherwise fully advised in the premises.

By the instant Petition, the United States seeks leave of the Court to issue a John Doe summons to American Bankers Insurance Group, Inc. (hereinafter "ABIG"). Said summons directs ABIG to, among other things, turn over the names of entities who, acting as agents for subsidiaries of ABIG, sold credit insurance policies during a certain period that were reinsured in the Turks and Caicos Islands.

The Court notes that 26 U.S.C. § 7609(f) of the Internal Revenue Code allows the Internal Revenue Service (hereinafter



"IRS") to issue a John Doe summons for a taxpayer whose identity is unknown. Such a summons can only be issued with court approval. Pursuant to § 7609(f), the IRS must demonstrate that (1) "the summons relates to the investigation of a particular person or ascertainable group or class of persons"; (2) "there is a reasonable basis for believing that such a person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law"; and (3) "the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources."

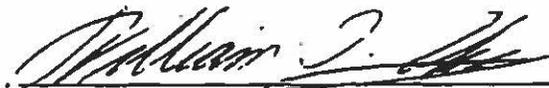
The IRS has sufficiently established each of these requirements. First, the summons relates to the investigation of an ascertainable group of persons, namely United States taxpayers who, between January 1, 1997 and July 1, 2003, sold credit insurance policies as agents for subsidiaries of ABIG where such policies were reinsured with entities in the Turks and Caicos Islands. The Court further finds that the IRS, by means of its Petition and exhibits thereto, has established that there is a reasonable basis for believing that the above class of persons violated provisions of the internal revenue law. Finally, the Court finds that although an informant alerted the IRS to the existence of a class of persons engaged in transactions as subsidiaries of ABIG that are violative of internal revenue law,

the information sought by the IRS to continue their investigation is not readily available through a means other than from ABIG itself.

Accordingly, and after due consideration, it is

**ORDERED AND ADJUDGED** that Petitioner, United States of America's Ex Parte Petition For Leave To Serve "John Doe" Summons (DE 1) be and the same is hereby **GRANTED**. The Internal Revenue Service, through any authorized officer or agent, may serve a John Doe summons upon American Bankers Insurance Group, Inc. in substantially the same form as is shown at Tab 1 of the Exhibits Appendix (DE 5) filed in this matter.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 30<sup>th</sup> day of October, 2003.

  
WILLIAM J. ZLOCH  
Chief United States District Judge

Copies furnished:  
John M. Bilhemier, Esq.  
For the United States

FILED by *[Signature]* D.C.  
OCT 30 2000  
LARENCE MADDOX  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 00-3919-CIV-JORDAN

IN THE MATTER OF THE TAX )  
LIABILITIES OF: )

JOHN DOES, United States taxpayers who, )  
during the years ending December 31, 1998 )  
and 1999, had signatory authority over )  
AMERICAN EXPRESS or MASTERCARD )  
credit, charge, or debit cards issued by or )  
through, or for which payment was received )  
from, banks in Antigua and Barbuda, the )  
Bahamas or the Cayman Islands, or issued to )  
persons or entities in Antigua and Barbuda, )  
the Bahamas, or the Cayman Islands )

**ORDER GRANTING EX PARTE PETITION FOR LEAVE TO FILE JOHN DOE  
SUMMONSES**

The United States of America has filed a petition for leave to file John Doe summonses pursuant to 26 U.S.C. § 7609(f). I have considered the petition, the memorandum of law, and the supporting affidavits and exhibits ex parte, as required by 26 U.S.C. § 7609(h)(2). I find that the United States has established the following.

First, the summonses relate to the investigation of an ascertainable group or class or persons, i.e., American Express and MasterCard signatories whose charge, debit, or credit cards were issued by or through, or paid for from funds drawn on, banks in Antigua and Barbuda, the Bahamas, or the Cayman Islands during 1998 and 1999. See 26 U.S.C. § 7609(f)(1).

Second, a reasonable basis exists for believing that such individuals may fail or may have failed to comply with provisions of the internal revenue laws. See 26 U.S.C. § 7609(f)(2).

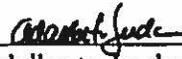
Third, the information to be obtained from the testimony and examination of the records (and the identities of the persons with respect to whose liability the summonses are issued) is not readily available from other sources. See 26 U.S.C. § 7609(f)(3).

*[Handwritten initials]*



Accordingly, the Internal Revenue Service, through an authorized officer or agent, may serve John Doe summonses, in the forms attached to the petition as Exhibits 1 & 2, on American Express Travel Related Services Co. and MasterCard International.

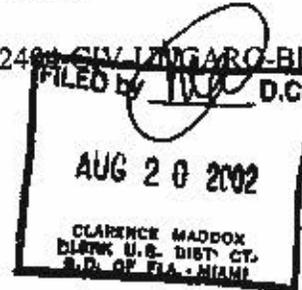
DONE and ORDERED in chambers in Miami, Florida, this 30<sup>th</sup> day of October, 2000.

  
\_\_\_\_\_  
Adalberto Jordan  
United States District Judge

Copy to: José Francisco DeLeon, DOJ (Fax: 202-514-9868)  
Grisel Alonso, AUSA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 02-22404 CIV. LINDARGO-BENAGES



IN THE MATTER OF THE TAX  
LIABILITIES OF:

JOHN DOES, United States taxpayers who during the years ended December 31, 1999 through December 31, 2001, had signature authority over MASTERCARD payment cards issued by, through, or on behalf of banks or other financial institutions in Anguilla, Antigua and Barbuda, Aruba, Bahamas, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Dominica, Gibraltar, Guernsey/Sark/Aldeney, Hong Kong, Isle of Man, Jersey, Latvia, Liechtenstein, Luxembourg, Malta, Nauru, Netherlands Antilles, Panama, Samoa, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Singapore, Switzerland, Turks and Caicos, and Vanuatu.

**ORDER GRANTING EX PARTE MOTION  
FOR LEAVE TO FILE JOHN DOE SUMMONSES**

THIS CAUSE is before the Court upon the United States of America's Ex Parte Petition for Leave to Serve John Doe Summons, filed August 15, 2002.

THE COURT has considered the Petition and the pertinent portions of the record and is otherwise fully advised in the premises.

The Court finds that the "John Doe" Summonses to be issued by the Internal Revenue Service to MasterCard International relates to the investigation of an ascertainable group or class of persons, i.e. United States taxpayers who have signature authority over MasterCard payment cards (including credit and debit cards bearing the MasterCard, Cirrus and Maestro logos) issued

by, through, or for banks or financial institutions in the countries listed in the above caption, for  
AUG 22 2002

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[Handwritten signature]

the years ending December 31, 1999 through 2001. *See* 26 U.S.C. § 7609(f)(1).

Second, a reasonable basis exists for believing that such group or class of persons may fail or have failed to comply with provisions of the internal revenue laws. *See id.* § 7609(f)(2).

Third, the information to be obtained from the testimony and examination of the records (and the identities of the persons with respect to whose liability the summons are issued) are not readily available from other sources. *See id.* § 7609(f)(3).

Accordingly, it is hereby

ORDERED AND ADJUDGED that the Internal Revenue Service, through Agent Joseph C. West or any other authorized officer or agent, may serve John Does summonses upon MasterCard International in substantially the same form as attached to the Exhibits Appendix to the Declaration of Revenue Agent West at Tab 1. A copy of this Order shall be served together with the summonses.

DONE AND ORDERED in Chambers at Miami, Florida, this 20 day of August, 2002.

  
URSULA UNGARO BENAGES  
UNITED STATES DISTRICT JUDGE

copies provided:  
counsel of record