

FILED

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
FORT MYERS DIVISION

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CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA

Case No. _____

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MARVIN DALE PALMER,)
)
 Defendant.)
 _____)

2: 15-cv-90 -FTM- 29CM

COMPLAINT

The United States of America brings this action to collect outstanding civil penalties assessed against defendant Marvin Dale Palmer for his failure to timely report his financial interest in a foreign bank account, as required by 31 U.S.C. § 5314 and its implementing regulations. The United States of America, through its undersigned counsel, complains and alleges as follows.

Jurisdiction and Venue

1. The United States brings this suit under 31 U.S.C. § 3711(g)(4)(C) at the direction of the Attorney General of the United States and at the request of, and with the authorization of, the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States.
2. The Court has jurisdiction over this action under 28 U.S.C. § 1331 and § 1345 because it arises under a federal statute and the United States is the plaintiff.
3. Venue is proper in this district under 28 U.S.C. § 1391(c)(3) because defendant Palmer is a United States citizen who currently resides abroad. Palmer's last known address is 12267 Championship Drive, Fort Myers, Florida.

**Palmer's Failure To Timely Report
His Financial Interest in Two Swiss Bank Accounts**

4. Section 5314 of Title 31 of the U.S. Code authorizes the Secretary of the Treasury to require United States citizens to report certain transactions with foreign financial agencies. Under the statute's implementing regulations, "[e]ach United States person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country shall report such relationship" to the IRS for each year in which such relationship exists. 31 C.F.R. § 1010.350(a).

5. To fulfill this requirement, a person must file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," commonly known as an "FBAR." *See id.* An FBAR is due by June 30 "of each calendar year with respect to foreign financial accounts exceeding \$10,000 maintained during the previous calendar year." 31 C.F.R. § 1010.306(c).

6. From 2003 through 2008, Palmer had a financial interest in, and signatory authority over, two accounts at Clariden Leu Bank in Switzerland. Both of these accounts were held in the name of Liechtenstein trusts. The first account was held in the name of the International Research Council ("the IRC account"), while the second was held in the name of the Pakama Foundation ("the Pakama account").

7. From 2006 to 2008, the balances of both the IRC account and the Pakama account were at all times greater than \$10,000.

8. On or before June 30 of 2007, 2008, and 2009, Palmer was required to file an FBAR reporting his financial interest in both the IRC account and the Pakama account for each year from 2006, 2007, and 2008, respectively.

9. Before December 2012, Palmer had never filed an FBAR for either of these accounts.

10. Palmer also did not report his income from, or financial interest in, either the IRC account or the Pakama account on any of the federal income tax returns he filed for the years 2003 through 2008.

11. In 2009, Palmer requested admission into the IRS's Offshore Voluntary Disclosure Initiative (OVDI). Through this program, the IRS was able to obtain amended income tax returns from Palmer for the 2003 through 2008 tax years.

12. During his time in the OVDI, Palmer did not provide the IRS with bank records or tax returns for the two Liechtenstein trusts.

13. Palmer was ultimately removed from the OVDI in May 2012 for his failure to cooperate with the Revenue Agent assigned to his case.

14. Following Palmer's removal from the OVDI, the IRS conducted an FBAR examination for the 2006, 2007, and 2008 tax years.

15. On or about December 16, 2012, Palmer filed a delinquent FBAR reporting his financial interest in both the IRC account and the Pakama account during the years 2003 through 2008.

Claim for Relief

16. 31 U.S.C. § 5321(a)(5) provides for the imposition of civil penalties for non-willful failure to comply with the reporting requirements of Section 5314 — i.e., when the person maintaining a foreign account fails to timely file an FBAR reporting that account despite having an obligation to do so. For such violations, the amount of the penalty may not exceed \$10,000 per violation. 31 U.S.C. § 5321(a)(5)(B)(i).

17. Due to Palmer's non-willful failure to file FBARs reporting his financial interest in the Swiss bank accounts during 2006 through 2008, on February 12, 2013, a delegate of the

Secretary of the Treasury of the United States assessed penalties against him under 31 U.S.C. § 5321(a)(5) in the amount of \$10,000 per violation, per year, as follows:

	2006	2007	2008	Total
The IRC Account	\$10,000	\$10,000	\$10,000	\$30,000
The Pakama Account	\$10,000	\$10,000	\$10,000	\$30,000
Total	\$20,000	\$20,000	\$20,000	\$60,000

18. A delegate of the Secretary of the Treasury of the United States also gave notice of the penalty assessments for 2006 through 2008 to Palmer and made demand for payment thereof.

19. Despite the notice and demand for payment, Palmer has failed to pay the penalties assessed against him. As a result, interest and statutory additions continue to accrue.

20. As of August 21, 2014, Palmer owes the United States \$63,334.21 in penalties assessed under 31 U.S.C. § 5321, including interest and other additional amounts which accrued and continue to accrue as provided by law.

WHEREFORE, the United States of America requests that the Court:

A. Enter judgment against Marvin Dale Palmer and in favor of the United States in the amount of \$63,334.21 for the penalties assessed against him under 31 U.S.C. § 5321(a)(5), plus further interest and statutory additions thereon as allowed by law from August 21, 2014, to the date of payment.

B. Award the United States its costs incurred in connection with this action, along with such other relief as justice requires.

Dated: February 10, 2015

Respectfully submitted,

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