

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLORADO

IN THE MATTER OF THE TAX	)	
LIABILITIES OF:	)	
	)	
JOHN DOES, United States Merchants who	)	
have established Merchant Sales	)	Civil No.
Agreements with First Data Corporation	)	
or any of its subsidiaries or affiliates, to	)	
process debit card, credit card, charge	)	
card, or other payment card transactions	)	
pursuant to a referral or any other business	)	
arrangement involving or software provided	)	
by First Atlantic Commerce, Ltd., a	)	
Bermuda Corporation, that results in Net	)	
Payments being deposited into an account at	)	
a Merchant/Acquiring Bank located outside	)	
the United States, at any time during the	)	
period January 1, 2002 through the date of	)	
service of the summons.	)	
	)	

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DECLARATION OF DANIEL REEVES

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I, Daniel Reeves, pursuant to 28 U.S.C. Section 1746, declare and state:

1. I am a duly commissioned Internal Revenue Agent and Offshore Compliance Technical Advisor employed in the Small Business/Self Employed Division of the Internal Revenue Service. I am assigned to the Internal Revenue Service's Offshore Compliance Initiative. The Offshore Compliance Initiative develops projects, methodologies, and techniques for identifying United States taxpayers who are involved in abusive offshore transactions and financial arrangements for tax avoidance purposes. I have been an Internal Revenue Agent for more than thirty years and have specialized in offshore investigations for the last eight years. As

an Internal Revenue Agent, I have received training in tax law and audit techniques, including specialized training in abusive offshore tax issues, and have extensive experience in investigating offshore tax matters.

2. For the past six years I have been the lead investigator for the Internal Revenue Service's Offshore Credit Card Project and other offshore compliance initiatives. I developed many of the investigative techniques and procedures being used to identify United States taxpayers with offshore bank accounts. I am also one of the developers of the Internal Revenue Service's offshore training programs for investigators and have participated as an instructor and expert at numerous presentations and training sessions on identifying offshore accounts.

3. The Internal Revenue Service is now investigating United States taxpayers who operate businesses, either online or from a physical location, and have some or all of their gross income from credit, debit, and other payment card sales deposited directly into a bank account maintained outside the United States. To facilitate this investigation, the Internal Revenue Service, once authorized by the Court, will issue under the authority of Section 7602 of the Internal Revenue Code (26 U.S.C.), a "John Doe" summons to First Data Corporation (hereafter First Data). The records sought by the summons will reveal the identities of and/or disclose transactions by persons who may be liable for federal taxes and will enable the Internal Revenue Service to investigate whether those persons have complied with the internal revenue laws.

4. First Data's corporate headquarters are located at 6200 South Quebec Street, Greenwood Village, CO 80111.

5. First Data provides credit, debit, smart card and stored-value card issuing and merchant transaction processing services, Internet commerce solutions, and check

processing and verification services to financial institutions in 37 countries. The Company is organized in three primary segments: Commercial Services, Financial Institution Services and First Data International. The Commercial Services segment facilitates merchants' ability to accept credit, debit and prepaid cards and checks across the United States by authorizing and settling merchants' credit, debit, stored-value and loyalty card transactions and check transactions. The Financial Institution Services segment provides financial institutions and other third parties across the United States with various services including credit and retail card processing, debit card processing and network services, output services and remittance processing services. The First Data International segment provides products and services in international markets that are similar to those offered by the Commercial Services and Financial Institution Services segments in the United States. The Internal Revenue Service's investigation will be facilitated by information maintained by First Data in the normal course of its business operations.

6. Based upon my experience and information received from other investigations, it is likely that a number of U.S. taxpayers may be under-reporting income, evading taxes, or otherwise violating the internal revenue laws of the United States by entering into a contractual relationship with First Data or any of its subsidiaries or affiliates, including, but not limited to First Data Merchant Services (FDMS) and Cardservice International, d/b/a First Data Independent Sales (FDIS) to settle its payment card sales to an offshore merchant bank account in association with First Atlantic Commerce Ltd., a Bermuda Corporation.

7. The "John Doe" summons to First Data relates to the investigation of an ascertainable group or class of persons. There is a reasonable basis for believing that this group

or class of persons may fail or may have failed to comply with provisions of the internal revenue laws. With respect to this group or class of persons, the summons requests information and documents through the date of full compliance with the summons. The information and documents sought to be obtained by the summons are not already in the possession of the Internal Revenue Service and are not readily available from sources other than First Data.

8. Section I of the declaration details the basis for the belief that the “John Doe” class may fail or may have failed, to comply with the internal revenue laws. Section II details the history of the IRS’s investigation of the class. Section III details how the information summoned from First Data may assist in that investigation.

**I. REASONABLE BASIS FOR BELIEF OF THE “JOHN DOE” CLASS’S FAILURE TO COMPLY WITH INTERNAL REVENUE LAWS.**

9. The Internal Revenue Service has been concerned with the growing problem of United States taxpayers, involved in both lawful and unlawful activities, evading the payment of United States taxes by concealing unreported taxable income or claiming improper deductions as a result of maintaining diverted funds in accounts in offshore tax haven and financial privacy jurisdictions. One method for U.S. taxpayers who operate businesses to move untaxed funds offshore is to open a merchant credit card bank account offshore and direct their payment card processor to deposit proceeds from their payment card sales directly into the offshore account.

**A. The Use of Offshore Accounts**

10. The United States Congress, the United States Treasury Department, a Presidential Commission, the Internal Revenue Service and numerous journalists have examined and reported on the use of offshore tax haven and financial privacy jurisdictions to evade the payment of United States taxes. While the following reports may not reflect the current state of

affairs in any particular country or the current use of any particular scheme or type of transaction, the purpose of this section is to show that the use of offshore accounts and entities for the purposes of tax evasion is a longstanding and pervasive problem.

The Gordon Report

11. On January 12, 1981, the Internal Revenue Service issued a report entitled “Tax Havens and Their Use by United States Taxpayers - An Overview,” commonly known as the “Gordon Report” for its author, Richard A. Gordon, Special Counsel for International Taxation. The Gordon Report was based on a review of judicial decisions and published literature in the field of international tax planning, research into internal Internal Revenue Service documents concerning taxpayer activities, interviews with Internal Revenue Service personnel, personnel who dealt with tax haven issues for other federal government agencies, and lawyers and certified public accountants who specialized in international taxation. Additionally, the findings in the Gordon Report were based on a statistical analysis of available data concerning international banking, United States direct investment abroad and foreign investment in the United States.

12. The Gordon Report states that the available data support the view that taxpayers ranging from large multi-national companies to individuals and criminals are making extensive use of tax haven and financial privacy jurisdictions. The Gordon Report concluded that there are:

enormous and growing levels of financial activity and accumulation of funds in tax havens [as well as a] large number of transactions involving illegally earned income and legally earned income which is diverted to or passed through havens for purposes of tax evasion.

The Crime and Secrecy Report

13. On August 28, 1985, the Permanent Subcommittee on Investigations of the United States Senate Governmental Affairs Committee issued a report entitled “Crime and Secrecy: The Use of Offshore Banks and Companies.” The Crime and Secrecy Report summarized the offshore problem as follows:

The subcommittee found that the criminal exploitation of offshore havens is flourishing because of haven secrecy and foreign government intransigence in the face of overwhelming evidence of dirty money in their banking systems. The effect has been to systematically obstruct U.S. law enforcement investigations erode the public’s confidence in our criminal justice system, and thwart the collection of massive amounts of tax revenues.

14. The report includes a quote from Senator William V. Roth, Chairman of the subcommittee regarding the committee’s findings on the use of tax haven and financial privacy jurisdictions by American citizens:

But equally shocking is the fact that we have also found that offshore havens are no longer used exclusively by criminals. Instead, they are increasingly being used by otherwise law abiding Americans to avoid paying taxes and to shield assets from creditors.

15. The Crime and Secrecy Report estimated that the “underground economy” at that time (1985) was hiding between \$150 billion and \$600 billion apparently unreported income from both legal and illegal business from the Internal Revenue Service. Furthermore, it stated that the underground economy was unquestionably linked to the use of offshore facilities.

The United Nations Report

16. On May 29, 1998, the United Nations’ Office for Drug Control and Crime Prevention, Global Programme Against Money Laundering, released a report entitled “Financial Havens, Banking Secrecy and Money Laundering.” The United Nations Report (at

<http://www.imolin.org/imolin/finhaeng.html>) states that offshore financial centers, tax havens and bank secrecy jurisdictions –

attract funds partly because they promise both anonymity and the possibility of tax avoidance or evasion. A high level of bank secrecy is almost invariably used as a selling point by offshore financial centers. Many Internet advertisements for banks emphasize the strictness of the jurisdiction's secrecy and assure the prospective customers that neither the bank nor the government will ever give bank data to another government. When the advertising is for private banks, it also stresses the protection from tax collectors.

United Nations Report, Part II, "The Global Financial System."

Hearing on Tax Haven Abuses: The Enablers, The Tools, and Secrecy

17. More recently, the Senate Permanent Subcommittee on Investigations issued a report describing this "sophisticated offshore industry," noting that:

A sophisticated offshore industry, composed of a cadre of international professionals including tax attorneys, accountants, banker, brokers, corporate service providers, and trust administrators aggressively promotes offshore jurisdictions to U.S. citizens as a means to avoid taxes and creditors in their home jurisdictions. These professionals, many of whom are located or do business in the United States, advise and assist U.S. citizens on opening offshore accounts, establishing sham trusts, and shell corporations, hiding assets offshore, and making secret use of their offshore assets here at home. Experts estimate that Americans now have more than \$1 trillion in assets offshore and illegally evade between \$40 billion and \$70 billion in U.S. taxes each year through the use of offshore tax schemes...utilizing tax haven secrecy laws and practices that limit corporate, bank, and financial disclosures, financial professionals often use offshore tax haven jurisdictions as a "black box" to hide assets and transactions from the Internal Revenue Service ("IRS"), other U.S. regulators, and law enforcement.

Minority & Majority Staff Report for Permanent Subcommittee on Investigations

Hearing on Tax Haven Abuses: The Enablers, The Tools and Secrecy, August 1, 2006, p.1. See

[http://hsgac.senate.gov/public/\\_files/TAXHAVENABUSESREPORT8106FINAL107.pdf](http://hsgac.senate.gov/public/_files/TAXHAVENABUSESREPORT8106FINAL107.pdf)

**B. The Use of Offshore Merchant Accounts**

Offshore Merchant Accounts Generally

18. I have reviewed various offshore/tax haven related Web sites on the Internet. The Internet has become an increasingly popular method of obtaining information about any subject matter. As an information and marketing tool, the Internet is used to market a wide variety of offshore related services. An individual can form an offshore corporation, create an offshore bank account, request offshore credit and/or debit cards, receive advice regarding offshore schemes, attend offshore presentations and perform a variety of other offshore related tasks all via the Internet. Offshore services are offered by a wide variety of individuals and entities. The marketers range from scam artists pushing offshore techniques as means to steal money from the public to major financial institutions. All are promoting the use of some offshore vehicle: offshore trusts, foreign bank accounts or offshore corporations that are often touted as being completely legal and effective in reducing taxes.

19. The use of offshore merchant accounts to divert income and avoid taxes is openly discussed in many Internet websites. A Google search on the terms “offshore” and “merchant account” conducted on January 9, 2009 resulted in 363,000 Internet “hits,” many of which discuss offshore merchant accounts as a way to shelter income, protect assets, and avoid paying taxes.

Offshore Merchant Account Articles

20. The use of offshore merchant accounts as a vehicle for tax avoidance and as a component of tax evasion schemes is often openly discussed in any number of financial planning articles. As demonstrated in the following excerpts, common themes in these articles are the



ease in setting up offshore merchant accounts and the ability to hide taxable income from taxing authorities by placing the funds in banks located in countries with bank secrecy laws.

- *Using an Offshore Merchant Account* by John Schroder, Ascot Advisory Services  
[http://www.escapeartist.com/efam10/Offshore\\_Merchant\\_Account.html](http://www.escapeartist.com/efam10/Offshore_Merchant_Account.html)

The real benefits to you as a business owner are the tax reduction opportunities that become available through the use of a separate offshore-incorporated company (your company) to handle your credit card business for you. In addition, you also have a very legitimate and convenient way to get your business profits offshore. The fact of the matter is, if you have an offshore bank or merchant company process your credit card transactions for you, your money already is “offshore.” This being the case, you now have the means to really make the most of your business income and keep more of what you earn.

Attached at Tab 1 (except as otherwise noted, the Internet materials attached as exhibits to this Declaration reflect the date that they were accessed on the bottom right-hand corner of the page).

- *Everything You Wanted To Know About Offshore Merchant Accounts (but didn't know who to ask)* by John Schroder, Ascot Advisory Services  
[http://www.ascotadvisory.com/Incorporations\\_Directory/offshore\\_Merchant\\_Accounts.html](http://www.ascotadvisory.com/Incorporations_Directory/offshore_Merchant_Accounts.html)

The ability to accept Visa or MasterCard payments from your customers is an integral part of operating your business, but where do you go for such a service? ... But, what if there was some reason why you preferred not to conduct your banking or credit card processing in the US? What if it were possible to gain some taxation, privacy or other benefits from transacting your credit card processing some place else?

Even if you have what may be deemed a clean and honest business, and your customers are very happy, you could still find yourself involved with a lawsuit or government tax audit. The modus operandi in the US seems to freeze the bank accounts & seize the assets first, then ask questions later. So, having your credit card transactions processed and held somewhere else means that at least the company's accounts are not so easy to get a hold of.

Attached as Tab 2.

- *A Tax Free Offshore Small Business (and related topics)* by John Schroder, Ascot Advisory Services  
[http://www.ascotadvisory.com/Incorporations\\_Directory/online\\_small\\_business.html](http://www.ascotadvisory.com/Incorporations_Directory/online_small_business.html)

A number of clients have been contacting us regarding business related topics, namely Offshore Merchant Accounts & operating an on-line business. Is it really possible to operate an Internet Business in a tax-free offshore environment? Is it possible to find good web hosting services or credit card processing services offshore? The answer is yes to all.

Let us examine some very basic premises why any on-line business is one that is almost impossible to tax (if set up properly), ...

So, what exactly is the correct way to gain tax advantages, and some of the other things we spoke of? Well, as a general rule, incorporate your business in a stable jurisdiction offering the ability of a zero corporate income tax. Perhaps find a reliable web hosting service in the proper jurisdiction, which may be another country altogether. Set up an offshore merchant account in yet another place, which offers the best rates or service. Finally, perhaps bank in yet another if it is favorable to do so. This all sounds complicated, but it is very easy to set up this way. In fact, a number of our clients have already done it. It is neither illegal nor immoral, it is just good sense.

Attached as Tab 3.

- *Tax Planning for Ecommerce Operations* by Natalie Aranda  
<http://www.how-to-build-website.com/build-website-directory/Tax-Planning-For-Ecommerce-Operations.html>

The unavoidable fact here is that there are certain jurisdictions around the world that might tend to have a much more favorable tax structure than home. It is important to accept that this is the prime reason for going offshore to do business. The offshore locales might talk of other things, but it is the taxes that make or break an onshore/offshore decision every time. Since Ecommerce operates in this unreal electronic world, physical location has become less of an issue.

The Credit Card Merchant Account that you use in your Ecommerce business is an example of how proper tax planning lays a foundation for prudent business decisions. The Offshore Merchant Account could very well be one of the first steps taken in an Ecommerce operation to move the business offshore. An understanding of the tax laws and reporting

requirements of each offshore account as compared to local Merchant Service providers can be a determining factor in this decision making process.

Attached as Tab 4.

- Top 5 Reasons Why An Offshore Merchant Account May Be Right For You by James B. Allen  
<http://www.webpronews.com/topnews/2004/07/20/top-reasons-why-an-offshore-merchant-account-may-be-right-for-you>

Incorporating an offshore merchant account into your online business is a process anyone who makes income online should consider. Currently little is known about this niche financial tool within the USA.

When talking about “going offshore,” asset protection and legal tax reduction are the first things that usually come to mind. Acquiring a merchant account in an [sic] a low or no tax jurisdiction outside of your own borders can help you accomplish both of these things legally and securely if arranged properly.

Plenty of countries outside of the U.S.A. have an equivalent level of technology and banking infrastructure. Furthermore though, there are a number of these countries that are also much more tax friendly and privacy friendly than current laws allow for American banks to be.

Selling your products, services or subscriptions via an international merchant account and receiving the payments through an offshore corporation into an offshore bank account can legally cut down on your tax burden and put more money in your pockets.

Attached as Tab 5.

- *Key Advantages of an Offshore Merchant Account* by Jennifer Loganathan  
<http://ezinearticles.com/?Key-Advantages-Of-An-Offshore-Merchant-Account&id=973504>

Offshore merchant accounts can offer substantial benefits for an e-tailer including:

1. Taxation benefits: Being set up offshore in specific tax havens can substantially reduce tax liabilities. Many countries have tax treaties in place with other less developed nations that enable business to reduce not just total tax liability but also taxes on

individual transactions, which can add a significant chunk to the retailer's bottom line.

Attached as Tab 6.

#### Offshore Merchant Account Websites

21. In addition to articles in financial planning periodicals, the use of offshore merchant accounts as tax avoidance/evasion devices is also openly discussed on websites, a sampling of which is provided below with relevant excerpts. Complete copies of websites are attached.

#### Offshore Merchant Account Websites Targeted to U.S. Taxpayers

22. Websites not only discuss generally the "benefits" of offshore merchant accounts when it comes to "minimizing" exposure to taxes, many of them are tailored specifically to U.S. taxpayers. It is particularly alarming that many websites directed toward enabling U.S. taxpayers to evade the payment of U.S. taxes stress that IRS is unlikely to detect them.

- <http://www.4merchant.com/offshore-merchant-accounts.html>  
Offshore merchant account is the key to your prosperity in e-commerce world, combined with offshore company it allows you to trade tax free.

#### ***OFFSHORE MERCHANT ACCOUNTS AND THEIR BENEFITS***

- Offshore merchant accounts generate more profit than normal merchant accounts as they are tax-free
- You become more competitive through offshore merchant accounts because you can offer lower prices due to tax savings than your competitors
- Your generated profits stay offshore and earn money tax free

Attached as Tab 7.

- [http://www.panama-offshore-services.com/panama\\_offshore\\_services.htm](http://www.panama-offshore-services.com/panama_offshore_services.htm)

You can minimize your domestic income taxes by using Panama Corporations for

international trade, investments, domestic business ventures, etc. Panama is one of the most popular jurisdictions in the world to incorporate because Panama is a 100% tax haven.

Offshore Merchant Accounts also provide you with the ability to collect fees beyond the jurisdiction of federal tax authorities.

Attached as Tab 8.

- [http://www.gmcclaw.com/offshore\\_faq.cfm](http://www.gmcclaw.com/offshore_faq.cfm)

Many companies who conduct commerce over the Internet are now using offshore jurisdictions to establish merchant credit card processing accounts. By establishing an offshore company and a merchant account, credit card transactions processed in that jurisdiction are tax-free. Due to the E-Commerce phenomenon, many large and small companies are now establishing offshore merchant accounts to process their Internet credit card transactions.

Attached as Tab 9.

- <http://www.offshore-protection.com/eCommerceSolution.html>

Offshore Merchant Accounts & E-Commerce Solutions

E-Commerce can provide you with a good opportunity to set up an internationally based business. Such a business can be operated at arms length from your own home (high tax) jurisdiction or from anywhere in the world. Depending on what is being sold, an e-commerce business is the ultimate portable venture.

To take advantage of the e-commerce opportunity for tax optimization purposes, you need to set up an offshore corporation that you neither own nor control. This then can be your platform for an international business with great tax benefits.

A few of the basic ingredients would therefore include:

1. An [sic] a “non-controlled” IBC and a bank account in a tax haven country.
2. Web hosting in a country other than your own.
3. Credit card merchant account - outside your home country - and preferably directly with a bank also in a tax haven country.

Attached as Tab 10.

- <http://www.gspay.com/the-advantages-of-getting-an-offshore-merchant-account.php>

Another advantage of an offshore merchant account is the reduced (in some cases to zero) tax. As offshore banks are generally located in a different country than the e-Commerce merchants the credit card processing fees are not subject to high taxes; these

are usually much lower, and, sometimes, 0%. This proves to be very convenient.

Attached as Tab 11.

- <http://www.compagne-matred.com/>

Offshore Merchant Account is a real time gateway for your success in a tax free e-commerce.

The establishment of the merchant account will bring you closer to achieve your business ambitions through:

- Providing a secure, cost-effective facility to expand your business
- Increasing the returns while moving you business offshore
- Tax-free

Attached as Tab 12.

- <http://www.can-offshore.com/merchant-account/offshore-merchant-account.htm>

Internet Merchant Accounts are designed to facilitate credit card transactions over the internet. If you operate an online business and do e-commerce, we have the perfect solutions for you to obtain privacy, and avoid all of the burdensome rules and regulations surrounding online e-commerce in your domestic country. Establishing a tax free offshore internet e-commerce business involves three simple steps:

1. Incorporate a tax free Panama corporation through our special offer. Our fee for set up is US\$1,300 which includes all government taxes & fees.
2. Establish a bank account where the proceeds of your online credit card transactions can be deposited into.
3. Establish an online internet merchant account.

Attached as Tab 13.

- <http://www.finance11.com/12655.html>

Some of the advantages of offshore credit card processing include zero taxation. Since your bank is in another country, the normal taxation rules do not apply to your business.

Attached as Tab 14.

**II. THE SUMMONS TO FIRST DATA CORPORATION SEEKS TO IDENTIFY PERSONS IN THE “JOHN DOE” CLASS NOT YET IDENTIFIED.**

**A. Merchant Processing Generally**

23. There are two components to a credit card transaction: the customer who uses the credit card to make the purchase of goods or services and the merchant who accepts the credit card and receives electronic payment for the goods or services through a merchant processor. A critical stage in the process is the deposit of funds into the merchant’s bank account. In previous Internal Revenue Service investigations, such as the Offshore Credit Card Project, the focus was on the customer, that is, U.S. taxpayers who paid for goods or services with credit cards linked to offshore bank accounts. The present Internal Revenue Service investigation focuses on the merchant side of the transaction, that is, on the merchant who receives income from the sale.

24. The Internal Revenue Service, through its prior investigations and studies of the offshore industry, has determined that there are U.S. merchants who deposit proceeds from credit, debit, and other payment card sales directly into offshore accounts. Through my research, I have determined that First Data Corporation, through its role in the processing of card transactions for merchants, has records which will lead to the identification of such U.S. taxpayers.

25. As the Internet has grown and technology has improved, traditional business models involving the sale of goods and services between buyers and sellers have had to adapt to facilitate crossing international boundaries and financial markets. Business financial services that were once provided exclusively by local banks and domestic financial service providers are now often provided by multi-national banks and international financial service providers. In particular, the growth of Internet based e-commerce has made it possible for even the smallest of

“Mom and Pop” businesses to participate in the global marketplace. While payments for purchases and sales of goods and services once occurred almost exclusively in the form of cash or check, most payments today take place by way of either a debit card or credit card.

26. Before a merchant can accept VISA or MasterCard branded debit or credit cards in payment of goods and services, several external business relationships must be established. First, the merchant must establish a direct deposit bank account at a bank that can accept deposits from an electronic processor of card transactions and is a member of the VISA and/or MasterCard network. This account is known as a “Merchant Account.” Next, the merchant must contract with a card processor with access to the VISA and MasterCard networks. The card processor acts as an intermediary between the merchant, the merchant’s bank, and the customer’s card issuing bank.

27. Once these relationships are established, the card processor manages all aspects of processing payment card sales including authorizing transactions, securing payments from card issuing banks and making deposits directly into the merchant’s bank account on a net basis at the end of each business day. Because the card processor actually deposits the funds from payment card sales into the merchant’s bank account, the card processor must know: (1) the identity of the merchant; (2) the location of the merchant’s bank account; and (3) the daily amount of revenue from payment card sales. In today’s global economy, these financial services can easily be provided in a cross border environment where the processor and/or the merchant’s bank can be located in an offshore secrecy jurisdiction.

**B. Other “John Doe” Summonses**

28. The Internal Revenue Service has been authorized to issue a number of John Doe



summonses to secure information concerning U.S. persons who controlled funds in bank accounts located in offshore secrecy jurisdictions. On October 30, 2000, the Southern District of Florida in Case No. 00-3919 CIV-JORDAN issued an order approving the service of “John Doe” summonses upon American Express and MasterCard International, Inc. (“MasterCard”). Based on the results of the continuing analysis of information obtained from MasterCard, the Internal Revenue Service expanded the scope of the investigation. The time period was expand to include the determination of the correct federal tax liabilities, for the years ended December 31, 1999, 2000 and 2001, and the jurisdictions in which the cards were issued were expanded to include additional jurisdictions throughout the Caribbean, European and Asian/Pacific markets.

29. On March 27, 2002, the Northern District of California in Case No. 02-MC-49, issued an order approving the service of a “John Doe” summons upon VISA International.

30. On August 20, 2002, the Southern District of Florida in Case No. 02-22404-CIV-UNGARO-BENAGES issued an order approving the service of a second “John Doe” summons upon MasterCard International. This second summons reflected the larger time period and increased number of offshore jurisdictions the investigation had grown to include since the first “John Doe” summons.

31. The Internal Revenue Service determined that some merchants could identify persons who used a particular card to purchase products or services from them. In an effort to identify the owner of some of the MasterCard payment cards for whom the cardholders remained unidentified, the Internal Revenue Service sought permission to serve “John Doe” summonses on particular merchants.

32. In 26 petitions filed between August 2002 and December 2003, the Internal

Revenue Service requested permission to serve “John Doe” summonses on 141 merchants. The information sought from the merchants included names and addresses associated with the transactional data previously produced by the credit card companies. Each request was granted. The table below lists the case numbers in which orders authorizing the Internal Revenue Service to serve the “John Doe” summons were issued:

Date of Petition	Jurisdiction	Case Number
August 2002	USDC N.D. Cal.	02-CV-04147
August 2002	USDC N.D. Ga.	02-MI-254
August 2002	USDC N.D. Ill.	02-CV-6178
August 2002	USDC N.J.	02-4211
August 2002	USDC N.D. Tex.	02-CV-1854L
August 2002	USDC E.D. Va.	02-MC-42
August 2002	USDC W.D. Wa.	C-02-1848
October 2002	USDC Ariz.	MC-02-0066
October 2002	USDC C.D. Cal.	02-7965
October 2002	USDC M.D. Fla.	02-mc-100
October 2002	USDC S.D. Fla.	02-23032
October 2002	USDC Md.	02-CV-3357
October 2002	USDC Minn.	02-MC-49
October 2002	USDC E.D. Mo.	02-MC-283
October 2002	USDC S.D. NY	M-18-304
October 2002	USDC S.D. Ohio	C-1-02-738
October 2002	USDC W.D. Tex.	A02-CA-667
October 2002	USDC W.D. Va.	02-MC-00002
October 2003	USDC S.D. Tex.	H-03-4054
October 2003	USDC N.D. Ok.	03-MC-28
October 2003	USDC Colo.	03-DV-1968
October 2003	USDC W.D. Tenn.	03-MC-26
October 2003	USDC E.D. Pa.	03-cv-05665
October 2003	USDC Mass.	03-MC-1031
October 2003	USDC E.D. Va.	03-cv-142
December 2003	USDC W.D. Mi.	03MC0140

33. In a further effort to identify the United States taxpayers holding offshore payment cards for which transactional data was obtained from the card associations and merchants, the Internal Revenue Service turned its attention to U.S. based third-party processors of card

transactions, who sometimes maintain records on a contract basis for card issuing banks, including offshore banks.

34. On September 11, 2003, the United States District Court for the Southern District of Florida in Case No. 03-22177 CIV-MARTINEZ, issued an order approving the service of a “John Doe” summons upon Credomatic of Florida, Inc., a third-party processor for a number of banks in financial privacy jurisdictions. The court subsequently entered an order approving service of a modified “John Doe” summons on Credomatic of Florida, Inc., on April 2, 2004. On August 2, 2004, the United States District Court for the District of Colorado in Case No. 04-F-1548 (OES), issued an order approving the service of a “John Doe” summons upon First Data because of its involvement then as third-party processor for a number of banks in tax haven or financial privacy jurisdictions. On August 5, 2004, the United States District Court for the Southern District of Florida in Case No. 04-21986 CIV-UNGARO-BENAGES, issued an order approving the service of a “John Doe” summons upon TecniCard, Inc., also a third-party processor for banks in tax haven or financial privacy jurisdictions. On August 15, 2004, the United States District Court for the Middle District of Georgia in Case No. 4:04CV94-1 (CDL), issued an order approving the service of a “John Doe” summons upon Total Systems Services, Inc., a third-party processor for a number of banks in tax haven or financial privacy jurisdictions. On February 21, 2006, the United States District Court for the Northern District of California in Case No. C 05-04167 JW issued an order approving service of a “John Doe” summons on PayPal, Inc., an internet-based money transfer service which enables any person with an email address and a bank account or a MasterCard, VISA, or American Express card issued by, through, or on behalf of a bank, to transfer money to any person with an email address.

35. In all of the above John Doe summonses, the control of the funds in the offshore accounts was established by the fact that the U.S. persons accessed the funds by the use of a credit or debit card linked to the accounts. Because the above summonses approached the offshore funds from the perspective of when they were accessed or withdrawn, and not when or how the funds were earned, the information secured through these prior John Doe summonses did not, in most cases, disclose when the funds had been placed offshore nor if the funds were from a taxable source. The records sought by the present summons are not already in the possession of the Internal Revenue Service and will likely produce more direct evidence of unreported business gross receipts than the prior John Doe summonses, which were directed at customers who were discovered spending their previously earned income.

36. The information sought through the summons to First Data Corporation will provide both the amount of revenue from credit, debit, and other payment card sales and the year credited to the merchant's account.

**C. First Data Corporation**

First Data Corporation is a card processor.

37. First Data Corporation is a card processor. Its web site states:

**Payment Solutions**

Allowing customers to pay with plastic isn't an option for today's merchants, it's a requirement. Reliable electronic payment solutions from First Data can help reduce the time merchants spend handling other payment types and allow you to focus on serving your customers and making sales. Choose from a variety of our electronic payment and online transaction processing solutions to enable credit and debit acceptance, check verification, currency conversion and contactless payment options.

[http://www.firstdata.com/product\\_solutions/payment\\_solutions/index.htm](http://www.firstdata.com/product_solutions/payment_solutions/index.htm)

38. As a card processor, by necessity First Data has information related to its client-merchants, including the merchant's identity, the amount of its credit, debit, and other payment card sales and the bank account where the funds are deposited. First Data stated as much in its 2007 10-K:

There are a number of different entities involved in a merchant transaction including the cardholder, card issuer, card association, merchant, merchant acquirer, electronic processor for credit and signature debit transactions, and debit network for PIN-debit transactions. The card issuer is the financial institution that issues credit or debit cards, authorizes transactions after determining whether the cardholder has sufficient available credit or funds for the transaction, and provides funds for the transaction. Some of these functions may be performed by an electronic processor (such as the Financial Institution Services business) on behalf of the issuer. The card association is Visa or MasterCard, a debit network (such as STAR Network) or another payment network (such as Discover) that routes the transactions between the Company and the card issuer. The merchant is a business from which a product or service is purchased by a cardholder. The acquirer (such as the Company or one of its alliances) contracts with merchants to facilitate their acceptance of cards. A merchant acquirer may do its own processing or, more commonly, may outsource those functions to an electronic processor such as the Commercial Services segment. The acquirer/processor serves as an intermediary between the merchant and the card issuer by:

- (1) Obtaining authorization from the card issuer through a card association or debit network;
- (2) Transmitting the transaction to the card issuer through the applicable card association, payment network or debit network; and
- (3) Paying the merchant for the transaction. The Company typically receives the funds from the issuer via the card association, payment network or debit network prior to paying the merchant.

First Data is a card processor whose client merchants include U.S. persons with offshore merchant accounts.

39. Cardservice International ("CSI"), currently doing business as First Data Independent Sales ("FDIS"), is a wholly-owned subsidiary of First Data, headquartered in Moorpark, California. CSI provides a wide range of noncash transaction processing options to local, regional and national traditional and Internet businesses through the use of First Data's

transaction processing system. CSI handles over 125 million transactions annually, including both point-of-sale and e-commerce card processing. CSI was established in 1988. The company processes every type of electronic payment method, including credit, debit, electronic benefits transfer and electronic checks.

40. First Atlantic Commerce (“FAC”) is a Bermuda based e-commerce provider. It was founded in 1998 by Andrea Wilson, a former Bank of N.T. Butterfield employee where she implemented First Data Corporation’s credit card processing system. FAC specializes in consulting services to acquiring banks for Internet enablement, and secure payment solutions for online merchants. Through custom software systems, the company connects merchants to major international credit card processors.

41. On December 11, 2001, CSI and FAC issued a joint press release announcing a joint venture to “Provide E-Commerce Solutions to International Merchants.” According to the press release:

First Atlantic Commerce, a leading e-commerce solution provider in Bermuda, and Cardservice International, a leading U.S. based transaction processing and payment solution provider, today announced they have agreed to jointly offer international payment solutions to U.S. and European businesses.

42. The press release further states:

First Atlantic Commerce and Cardservice International can provide merchants who expand into the global arena with international e-commerce solutions for multicurrency pricing and split jurisdictional payment settlement. Global multicurrency services allow customers and merchants to transact business in their currency choice. In addition, split jurisdictional settlement enables U.S. merchants to settle domestic credit transactions in the United States, but have payments with universally accepted cards, such as MasterCard and Visa, settled to an international jurisdiction.

“As the needs of international merchants who sell goods and services online have grown and become increasingly more complex, we have continually evolved

our e-commerce solutions with new capabilities,” said Andrea Wilson, chief executive officer for First Atlantic Commerce. “We’ve observed that many of Cardservice International’s merchants need global payment solutions for their Web sites. Now we can bring to these merchants the benefits of leveraging corporate tax advantages through payment settlement in the Caribbean and Latin America region, including Bermuda.”

Attached as Tab 23.

43. As stated in the press release, “split jurisdictional settlement” allows U.S. merchants to have domestic sales income derived from credit, debit, and other payment cards other than MasterCard and VISA deposited into a U.S. merchant account, but have sales income derived from MasterCard and VISA transactions, both domestic and international, deposited into a foreign merchant account. FAC’s CEO Andrea Wilson’s statement in the press release makes it clear that “...leveraging corporate tax advantages through payment settlement in the Caribbean and Latin America region, including Bermuda” is available to U.S. merchants. Since U.S. taxpayers are taxed on their worldwide income, there can be little doubt that the primary reason for doing so would be to avoid paying taxes in the United States on sales income attributable to MasterCard and VISA transactions.

44. CSI began marketing the product in January of 2002 when it added an “International” page to its corporate website that described its partnership with FAC as:

Cardservice International and First Atlantic Commerce provide merchants that expand into the global arena with international e-commerce solutions for multicurrency pricing and split-jurisdictional payment settlement. This allows customers and merchants to transact business in their currency choice. In addition, split-jurisdictional settlement enables U.S. merchants to settle domestic credit transactions in the United States but have payments with universally accepted cards, such as MasterCard or Visa, settled to an offshore jurisdiction.<sup>1</sup>

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<sup>1</sup>www.cardserve.com archived by www.waybackmachine.com on February 8, 2002.

45. The language of the final sentence, which describes the benefits of split jurisdictional settlement, is identical to the language used in the press release except for the changing of the single word “international” to “offshore.” This change is not inconsequential as the clear implication of changing the term from “international” to “offshore” is to imply that the merchant account will be located in a so-called “tax haven” jurisdiction. A hyperlink at the bottom of the webpage directs the user to First Atlantic Commerce’s website for additional information.

46. CSI made these web pages available to its more than 500 Independent Sales Offices (ISOs) and 2,700 Independent Sales Agents (ISAs) for inclusion on their own web sites which resulted in these offshore services being marketed extensively to US merchants. Attached are three examples captured from the Internet at various times.

Cincinnati ISO	www.cardservicecincy.com	08-29-2005
San Francisco, CA ISO	www.avcmerchants.com	08-17-2007
North Texas ISO	www.cardservicenorthtexas.com	10-10-2008

Attached as Tab 24.

47. While the marketing and solicitation of U.S. merchants for offshore merchant accounts was performed by CSI, the actual day to day processing and settling of the merchant’s credit card transactions has been performed by another First Data subsidiary, First Data Merchant Services (FDMS), since the beginning. On its first website in 1999, FAC identified FDMS on its “Business Partners” page stating:

First Data Merchant Services, a division of First Data Corporation, is the world’s largest provider of merchant processing services for VISA and MasterCard and other major credit cards in the retail, hospitality, supermarket, direct marketing and health care industries.

Attached as Tab 25.



48. On its current website, FAC continues to identify FDMS as a strategic partner stating:

First Data Corporation is a worldwide leader in electronic payment solutions. First Data through its bank partners gives a competitive edge to businesses and financial institutions, offering a complete portfolio of payment systems and services to meet the globally expanding needs of their clients. The company harnesses partnerships with industry leaders to provide leading edge, innovative products and services.

Attached as Tab 26.

49. CSI, through its ISOs and ISAs, clearly markets offshore merchant account services to U.S. merchants as a means of tax avoidance by advertising its services on the websites of foreign promoters of abusive offshore tax schemes and products. Two examples are ThetaWorld Offshore Services and Sovereign Management Services S.A.

50. ThetaWorld Offshore Services ([www.offshore-services.biz](http://www.offshore-services.biz)) is a Panama based offshore service provider whose website states:

ThetaWorld Corporation based in Republic of Panama has been in business since 2002 providing offshore banking, brokerage and offshore company incorporations. Today we have a full range of business services and products for every businessman wishing to start the venture or investments through the offshore company or offshore banking.

51. On its website, ThetaWorld includes a paid advertisement banner for Cardservice International (CSI) that includes the statement:

Cardservice International merchant account is available for U.S. residents only.

Attached as Tab 27.

52. Sovereign Management Services S.A. ([www.offshore-protection.com](http://www.offshore-protection.com)) is a Panama based offshore service provider that describes itself on its website as follows:

Sovereign Management and Legal, S.A. provides a diversified worldwide client base in today's troubled times with realistic solutions to protect their assets, regain their privacy and minimize their taxes.

53. On its Offshore Merchant Accounts Directory, it provides an advertisement link to First Data Independent Sales of San Francisco, CA, an ISO of CSI that states:

Accept credit cards with First Data Independent Sales (San Francisco, CA) - Take your business to the next level: start accepting credit cards. Apply now online for your retail, restaurant, mail/phone order, Internet or wireless merchant account. Buy or lease credit card terminals at incredibly low prices with instant rebates. Free, fast and easy setup, lowest processing rates.

54. Andrea Wilson, CEO of FAC, has been interviewed on numerous occasions regarding offshore merchant accounts. She has also authored articles on the subject. She frequently lists the tax advantages as one of the primary benefits merchants can expect by going offshore. In a March 2002 online interview, she stated:

**Finding the Stairway to E-Commerce Heaven,**

By Andrea Wilson, CEO of First Atlantic Commerce (2002)

**Why should I domicile my e-business offshore?**

E-commerce businesses are the first generation of virtual or electronic companies that can really domicile their businesses "anywhere" in the world. A company is no longer restricted to start business in its home country as it has the flexibility to choose a jurisdiction that meets its corporate and tax objectives.

**What are the benefits of domiciling offshore?**

Well, there are many, but let's start with the basic one tax. Clearly, careful tax planning is essential to ensure businesses are getting the biggest bang for their buck! Tax dollars saved means more dollars for marketing and growing the business. Tax neutral countries offer corporate tax, capital gains exemptions and sales tax exemptions (among others) to international businesses with a presence there. This is all legal and available for Internet businesses to leverage.

**Business Simplification**

Likely the most underestimated benefit of locating offshore. The Caribbean market offers a world of simplification from establishing single multicurrency merchant accounts, to incorporating online, hosting with complete end-to-end technology providers, operating accounts through Internet banking and offering merchants the ability to domicile in a tax free environment.

Attached as Tab 28.

55. In other articles and interviews, Andrea Wilson is referenced or quoted as follows:

**Merchant Accounts and Payment Systems for Offshore E-Commerce Businesses**, By Jessica J. Howard, *Offshore Finance Canada* (March/April 2000)

“Let’s face it-the US dollar is the currency of the Internet, at least for now, so any merchant wanting to compete on the Web needs to offer their goods and services for sale in US dollars,” says Andrea Wilson, senior vice president of First Atlantic Commerce Ltd., a Bermuda-based multi-currency payment system provider.

Depending on how the Internet business is structured, it may also be able to take advantage of doing business in a low- or no-tax jurisdiction. Although Planet Payment and First Atlantic Commerce offer the ability of settling transactions offshore without being incorporated offshore, such a company structure does not necessarily offer tax advantages. “The tax advantage comes into play when the company is domiciled outside of North America and has their settlement to a bank in a tax-free or tax-neutral jurisdiction,” says Wilson.

Attached as Tab 29.

**Charge It! Bermuda leads the way in electronic transactions**, By Duncan Hall (Winter 2000)

Andrea Wilson often goes to bed thinking about a thorny problem posed by a prospective client of First Atlantic Commerce Ltd., where she is chief executive officer.

FAC’s multi-currency platform allows its merchants to offer pricing in 58 currencies, while settling the transactions in US dollars based on the exchange rate at the time the transaction was authorised. Merchants may also settle

their transactions in more than one jurisdiction. North American merchants, for example, can settle their US or Canadian cardholder transactions via a North American bank sanctioned by First Data's merchant services operation, but settle their international consumer card transactions to a qualifying offshore bank, thereby taking advantage of the benefits (tax, for example) of conducting business offshore.

Attached as Tab 30.

**As Dot-Coms Go Bust in the U.S., Bermuda Hosts a Little Boomlet,**  
By Michael Allen, Wall Street Journal (01-09-2001)

Undaunted by their industry's growing ranks of flameouts and hoping to emerge as one of the profitable few, dozens of [dot-coms] are popping up in tax havens around the world.

"These merchants are the first generation who can really domicile anywhere," says Andrea Wilson, chief executive of Bermuda-based First Atlantic Commerce Ltd. ([www.firstatlanticcommerce.com](http://www.firstatlanticcommerce.com)), which provides credit-card payment systems for e-businesses. "They can be a virtual corporation if they choose."

There are serious questions about whether some of the structures would pass muster with the Internal Revenue Service and its foreign counterparts. But many accountants figure there's enough ambiguity in the industrial world's offshore tax codes that e-commerce companies could, at least theoretically, rack up tax-free profits for years before the authorities sort things out.

Attached as Tab 31.

**Provident Bank & Trust First To Offer International E-Commerce Accounts In Belize,** By Amanda Banks, Tax-News.com, London, 11 October 2001

The Belize Provident Bank and Trust has joined forces with Bermuda-based e-commerce solutions company, First Atlantic Commerce, to become the first financial institution in Belize to offer international e-commerce accounts.

'Provident Bank and Trust is in an exciting position as the only financial institution in Belize ready and able to provide e-commerce services to Internet businesses,' states Andrea Wilson, CEO of First Atlantic Commerce. 'Now that Provident Bank is e-commerce ready, we can help them expand their client base with the next phase of our services – fraud prevention, risk management and merchant verification services.'

Provident Bank and Trust benefits from Belize's status as a tax-free location for qualified businesses and has a duty free zone attracting international e-business to the area.

Attached as Tab 32.

**E-business banking void.** By Becky Ausenda, The Royal Gazette, Bermuda (06-06-2003)

FAC, chief executive officer, Andrea Wilson explained that according to VISA and Mastercard regulations, businesses based offshore have to have a merchant account in the same region. "You can't be a Bermuda company and have your merchant account in the US."

This led to FAC being inundated with requests for help. Ms Wilson says she has been receiving up to 100-150 requests for merchant accounts, per month from US companies. "I don't have anywhere to refer them in Bermuda so I have been referring them to Scotiabank and FirstCaribbean Bank and our banking partners in Central America and the Netherlands Antilles. We've got a lot of leads coming and all that business is being referred down to the Caribbean."

Attached as Tab 33.

**WILSON'S WINNING SOLUTIONS - First Atlantic Commerce CEO Andrea Wilson is recognized internationally for contributions to the e-commerce industry,** By Chris Gibbons, Bermuda Business (03-2005)

In a nutshell, what FAC does is provide secure, cost-effective and tax-efficient ways by which online merchants and other e-businesses can settle online credit card transactions regardless of currency and location, and help banks successfully issue and acquire credit-card transactions.

Attached as Tab 34.

56. First Atlantic Commerce has entered into business partnerships with various known promoters of abusive offshore tax avoidance schemes. Among these are Liberty Enterprises, a Vancouver, Canada based promoter that specifically directs abusive schemes at US taxpayers; PTClub, a European based promoter; and Privacy World. Liberty Enterprises states that it helps American citizens "...secure their hard earned money in the best offshore tax

havens,” while PTClub and Privacy World both reference FAC and First Data on their respective websites.

57. Liberty Enterprises Inc. [www.confidentialbanking.com](http://www.confidentialbanking.com)

On its website home page, Liberty Enterprises states:

At Liberty Enterprises we work in conjunction with affiliated offshore banking providers located around the world, facilitating a vast array of business services. We help American citizens, US corporations and business entrepreneurs across the world to secure their hard earned money in the best offshore tax havens.

Our IBC incorporation product line will enable you and your business to conduct all your high risk merchant processing activities in jurisdictions where it is against the law to release any information about you or your affairs to a third party without your consent.

Our firm also establishes International offshore merchant accounts for Internet businesses that wish to accept credit card transactions in a secure tax-free setting.

Press Release (5-27-2005) Liberty Enterprises Inc. Partners with First Atlantic Commerce

Liberty Enterprises Inc., Vancouver’s source for offshore banking, has just announced a strategic partnership with Bermuda-based international merchant account provider First Atlantic Commerce (FAC).

“Taxation in Panama is on a territorial basis; taxes only apply to income generated within Panama itself. Therefore, IBC Companies can capture all credit card transactions in an offshore and completely tax-free environment through an International Business Corporation,” said Peter Flowers.

This continues the expansion of secure e-commerce payment solutions offered by Liberty Enterprises Inc. in Panama. Internet merchants will have the ability to accept their products in 58 different currencies with settlement in US dollars.

Attached as Tab 35.

58. PtClub [www.ptclub.com](http://www.ptclub.com)

On its website home page, PtClub describes itself as:

PTClub is one of the oldest privacy sites on the Internet. This site is for privacy seekers and those wishing to secure their sovereignty. We believe in maintaining our civil liberties, privacy, prosperity, freedoms and business. PTClub offers tax free offshore services, offshore company incorporation, immigration services, residency and passport programs, offshore bank accounts and many other financial services in world wide tax havens.

Attached as Tab 36.

59. On PTClub's credit card merchant account webpage (under the banner "You can roam the globe electronically, raking in tax-free income 24 hours per day") PTClub offers offshore merchant accounts in Panama.

Setting up shop on the internet is the perfect Portable Trade - you can sell information, services, entertainment or physical products for drop-shipping. All you need is a laptop and a phone connection and you are FREE TO PT as your profits accrue in an offshore account!

However, despite the proliferation of "guaranteed merchant services" on the net, you will find they all require some form of ID, Social Security Number or onshore presence.

At PTClub we can set up merchant facilities enabling you to accept Visa, Credit Card, American Express, Diners Club and others in total anonymity if required.

Attached as Tab 37.

60. In describing payment and processing arrangements for the Panamanian merchant account, the PTClub webpage states:

**Payment Gateway**

Our services include the verification of the customer's credit cards (funds, expiration, fraud) that access their Internet site to make payments. For this purpose, Verisign and First Atlantic Commerce who are known worldwide in the field of Internet security supports us.

**Processing**

Regarding the electronic collection, we have established a partnership with First Data Corporation (FDC), a leading worldwide organization in credit card

processing. FDC provides transactions processing services with the most important Banks in the United States, and is part of the New York Stock Exchange (NYSE) representing one of the best 500 shares (Standard & Poors).

Attached as Tab 38.

61. Privacy World [www.privacyworld.com](http://www.privacyworld.com)

On its website home page, Privacy World, a Tokyo based company, offers "...the best tax-reduction production that could possibly be on the market today...":

For your convenience Privacy World has put together the best comprehensive guides on how to obtain any privacy, offshore banking or tax reduction product that could possibly be on the market today. Look no further, if it's not on this site it doesn't exist!

Under the heading "Specialized information on Asset Planning, Asset Protection, Tax reduction and different identities for all privacy seekers, especially Americans ..."

Privacy World offers offshore merchant accounts and recommends the use of an offshore corporation:

However as in every business, you will also want a corporate infrastructure and some usable logistical tools to go with it. Here's what we recommend that you get:

- a bona fide tax-free offshore bearer share corporation from Panama in your chosen name
- a corporate bank account with internet banking, an ATM card (not in Panama.)
- a functional mail & fax forwarding service
- One of several reliable offshore merchant providers, (essential for mail order business)

As with PtClub, Privacy World describes its payment and processing arrangements for the Panamanian merchant account as:

**Payment Gateway**

Our services include the verification of the customer's credit cards (funds, expiration, fraud) that access their Internet site to make payments. For this purpose, Verisign and First Atlantic Commerce who are known worldwide in the



field of Internet security supports us.

**Processing**

Regarding the electronic collection, we have established a partnership with First Data Corporation (FDC), a leading worldwide organization in credit card processing. FDC provides transactions processing services with the most important Banks in the United States, and is part of the New York Stock Exchange (NYSE) representing one of the best 500 shares (Standard & Poors).

62. In summary, it is clear from a literal reading of the websites of these various entities that First Data has information concerning U.S. merchants who have credit card sales settled directly to offshore accounts. CSI, a wholly-owned First Data subsidiary, and First Atlantic Commerce have partnered since 2001 to offer split-jurisdictional settlement of credit card sales. CSI merchant accounts were advertised on ThetaWorld's website (Tab 27) as available to U.S. merchants only. Another First Data subsidiary, FDMS, is the merchant credit card processor for CSI-FAC merchant account holders. Therefore, because a First Data subsidiary makes the actual deposit of credit card receipts into the merchants' accounts, First Data is in possession of information related to U.S. merchants who use the CSI-FAC relationship to deposit credit card receipts into offshore merchant accounts.

63. Based upon the foregoing, I have concluded that there is a reasonable basis for believing that the information sought in the "John Doe" summons issued to First Data will identify United States taxpayers who may have diverted unreported income offshore or received unreported income from undisclosed offshore sources or have taken improper deductions or credits or have failed to withhold tax on certain payments made offshore and will enable the Internal Revenue Service to locate taxpayers who have failed to pay taxes owing under the Internal Revenue laws during the period January 1, 2002 through the date of service of this summons.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct.

Executed this 10th day of April 2009.

s/ Daniel Reeves  
DANIEL REEVES  
Revenue Agent  
Internal Revenue Service