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 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
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IN THE UNITED STATES DISTRICT COURT FOR THE
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

UNITED STATES OF AMERICA,
 Plaintiff,
 v.
 WILLIAM H. CAMP, JR., individually and d/b/a
 UNIVERSAL BUSINESS SYSTEMS,
 Defendant.

C08 - 292 MJB
 Case No. _____
Complaint for Permanent Injunction

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, complains as follows against Defendant William H. Camp, Jr., individually and doing business as Universal Business Systems:

1. This action has been requested by the Chief Counsel of the Internal Revenue Service (IRS), a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. (I.R.C.) §§ 7402, 7407, and 7408.
2. The United States brings this complaint to enjoin Camp, and anyone in active concert or participation with him, from directly or indirectly:

Complaint

U.S. Department of Justice, Tax Division
 P.O. Box 7238, Washington, DC 20044
 Telephone: (202) 616-9482

US Court (filed by) Sigs

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- 1 (a) Organizing, promoting, or selling the Mining Interest Development Action
2 Strategy (MIDAS) program associated with Merendon Mining, Inc. and its
3 subsidiary corporations;
- 4 (b) Making false or fraudulent statements, in connection with the organization or sale
5 of a tax shelter, plan, or other arrangement, about the allowability of any
6 deduction or credit, the excludability of any income, or the securing of any other
7 tax benefit by reason of participating in the tax shelter, plan, or other
8 arrangement;
- 9 (c) Organizing, promoting, selling, or advising participation in any other tax shelter,
10 plan, investment, business venture, or arrangement that makes false or fraudulent
11 representations about federal tax benefits of participating in such tax shelter, plan,
12 investment, business venture, or arrangement;
- 13 (d) Causing or assisting other persons and entities to understate their federal tax
14 liabilities and avoid paying federal taxes;
- 15 (e) Preparing, filing, or helping others to prepare or file federal income tax returns,
16 amended returns, or any other tax-related documents or forms for any entity or
17 person other than himself;
- 18 (f) Engaging in any other conduct subject to penalty under I.R.C. § 6700, including
19 making or furnishing, in connection with the organization or sale of a shelter,
20 plan, or arrangement, a statement that he knows or has reason to know to be false
21 or fraudulent as to any material federal tax matter, or by making a gross valuation
22 overstatement;
- 23 (g) Engaging in conduct subject to penalty under I.R.C. § 6701, including preparing
24 or helping others prepare documents likely to be used in connection with any
25 material matter arising under the internal revenue laws that he knows will (if so
26 used) result in understating another person's tax liability;
- 27 (h) Engaging in any conduct subject to penalty under I.R.C. § 6694, including
28 preparing tax returns for customers where there is no reasonable belief that the
position would more likely than not be sustained on its merits, and asserting a
claimed deduction under I.R.C. § 616 with respect to which the customer has not
made any mining development investment;
- (i) Engaging in any conduct subject to any other penalty under the I.R.C.;
- (j) Falsely representing himself to be an accountant or other tax professional;
- (k) Falsely representing his experience or education as a tax return preparer;
- (l) Representing anyone before the Internal Revenue Service; and
- (m) Engaging in any other conduct that interferes with the administration or
enforcement of the internal revenue laws.

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1 3. An injunction is warranted based on Camp’s continual and repeated violations of the
2 internal revenue laws, including engaging in conduct subject to penalty under I.R.C. §§ 6700,
3 6701, 6694, and 6695.

4 **Jurisdiction and Venue**

5 4. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C.
6 §§ 7402(a), 7407, and 7408.

7 5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of
8 the events giving rise to this claim occurred within this jurisdiction and a substantial number of
9 Camp’s customers who participated in the fraudulent tax scheme reside within this jurisdiction.

10 6. Camp promoted the fraudulent tax scheme in the state of Washington and prepared tax
11 returns on behalf of many state of Washington residents. Camp resides in and operates his
12 business, Universal Business Systems, in the District of Columbia.

13 **Overview of Camp’s Activities**

14 7. Camp is a purported accountant and tax return preparer who prepares federal income
15 tax returns in affiliation with Merendon Mining (Colorado), Inc. (hereinafter Merendon), a
16 company that purports to redevelop disused gold mines in Colorado and elsewhere for a profit.
17 Specifically, Camp promotes a tax scam called Mining Interest Development Action Strategy
18 (MIDAS) through Merendon in which customers purportedly “invest” in the development of
19 mines in Colorado, Arizona, and California. In promoting the MIDAS scheme, Camp and other
20 Merendon promoters tell customers that the mines contain viable gold, platinum, and other
21 mineral reserves, that customers should claim federal income tax deductions for not-yet-paid
22 “mining development expenses,” and that customers should give to Merendon as their purported
23 “investment” the tax refunds that they obtain as a result of taking those deductions. To entice
24 customers to provide Merendon these ill-gotten refunds, Merendon promises a 34-51% return on
25 the so-called “investment.”

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1 8. Beginning in 2003, Merendon promoters advised potential MIDAS participants that in
2 order to participate in the tax scheme, the customers would have to sign agreements promising to
3 invest up to \$10 million for the extraction of minerals from Merendon's mines over a ten-year
4 period. These agreements were shams. After signing them, most customers did not actually pay
5 any money to Merendon for mining development. Nevertheless, the promoters falsely told
6 customers that they could file amended tax returns for previous years in order to claim large
7 deductions for "mining development investments" based on the sham agreements. These bogus
8 deductions yielded claims for large tax refunds.

9 9. Promoters referred Merendon customers to Camp to prepare the fraudulent tax returns
10 and amended returns claiming those bogus mining-development deductions. Camp contacted the
11 Merendon customers, often explaining how the purported investment and tax-refund scheme
12 worked, and falsely assuring customers it was legal. In many cases, Camp falsely told customers
13 that the IRS or federal government had approved the investments and that the amended tax
14 returns he prepared and filed for them were legal. Camp prepared amended tax returns for at
15 least 22 MIDAS customers in Washington, Florida, California, Texas, Georgia, and New York
16 claiming total fraudulent refunds under I.R.C. § 616 exceeding \$7 million mostly over tax years
17 1997 through 2002. Merendon customers received fraudulent refunds exceeding \$1 million
18 before the IRS detected the fraudulent scheme.

19 10. The great majority of MIDAS scheme participants for whom Camp prepared returns
20 never contributed any money towards the purported mines before obtaining tax refunds.
21 Moreover, the participants were otherwise not eligible for the claimed deductions because: (1)
22 the mines did not contain commercially marketable quantities of ore or minerals; (2) customers
23 did not contribute money or have any actual risk of their money being spent for mine
24 development; (3) any money customers contributed was not paid in 2002, as reported; and (4)
25 any claimed net operating loss deductions are properly deductible only against a customer's
26 passive, rather than earned, income. Camp nevertheless prepared returns, and in some cases

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1 secured refunds for customers, fraudulently reporting that customers had no tax liability for up to
2 seven years because of the purported mining investments.

3 11. Camp also acted as a power of attorney for Merendon customers, appearing at
4 meetings with the IRS and otherwise advising customers how to take advantage of the MIDAS
5 scheme.

6 **The Merendon Mining Tax Scheme Promotion**

7 12. Merendon Mining (Colorado), Inc. (hereinafter “Merendon”) is a subsidiary of
8 Merendon Mining (Nevada), Inc. Both are controlled by Milo Brost of Calgary, Alberta. Brost
9 operates both Merendon corporations in conjunction with his umbrella organization, the Institute
10 for Financial Learning (hereinafter IFFL), headquartered in Canada. Merendon is directed and
11 operated by Ward Capstick of Snohomish, Washington. In its promotional materials IFFL
12 identifies Capstick and other persons who promote various IFFL “investment” schemes as
13 “structurists.”

14 13. Camp prepares tax returns for individual Merendon customers from Washington,
15 Florida, California, Texas, Georgia, and New York. In doing so, Camp claims to be an
16 accountant. On information and belief, Camp does not hold a valid accounting license.

17 14. From 2003 through 2006, Camp promoted the MIDAS scheme for Merendon and
18 IFFL in conjunction with Capstick and other structurists. In many cases, Merendon structurists
19 recruited prospective customers through existing customers, their family members, and co-
20 workers. In these situations, the promoters or customers told other prospective customers about
21 the MIDAS scheme, and referred prospective customers to Capstick or other promoters for them
22 to provide the details and further explanation about MIDAS. Several of Camp’s customers are
23 family members of, co-workers of, or otherwise affiliated with other MIDAS scheme
24 participants.

25 15. After making an initial contact with potential customers, Merendon structurists,
26 including Camp, explained details of the MIDAS scheme during individual meetings, over the

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1 telephone, and at information sessions IFFL sponsored in the state of Washington and elsewhere.
2 Structurists, including Camp, gave customers copies of the MIDAS and Merendon prospectus, a
3 “Mining Agreement,” and other documents explaining the MIDAS tax scheme.

4 16. At presentations and in promotional materials they furnished to potential customers,
5 Merendon promoters including Camp stated that Merendon owned two disused gold mines in
6 Colorado and one in Arizona. They falsely told customers that with new technology, these
7 mines could begin producing gold and other minerals again. The MIDAS prospectus that Camp
8 provided to Merendon customers advised customers that the mines contained commercially
9 marketable quantities of ore.

10 17. In fact, Merendon’s properties contained no commercially marketable quantities of
11 ore and no mining has taken place at these mines. In some cases, Merendon had not obtained
12 mining permits to allow any development on the properties. Instead, the purported investment
13 scheme was a sham, used for the sole purpose of helping customers’ obtain fraudulent income
14 tax refunds and then inducing the customers to turn over those funds to Merendon.

15 18. Merendon promoters including Camp falsely told customers that the federal
16 government had set up a program that allowed taxpayers to receive tax refunds and use this
17 money for investing in Merendon’s redevelopment of disused mines, and that the IRS had
18 approved this program. In fact, the federal government has not created any such program and
19 the internal revenue laws do not allow deductions for amounts not actually paid or incurred in
20 the year for which the deduction is claimed.

21 19. Capstick falsely told potential customers that by signing Mining Agreements with
22 Merendon, they would be able to take full advantage of the mining development tax deductions
23 under I.R.C. § 616. He further told prospective customers that after signing the agreements, the
24 customers were required to amend their tax returns for the previous five years in order to claim
25 the deductions, and that Camp could prepare and file these amended tax returns for them.

1 20. Merendon promoters, including Camp, persuaded customers to participate in MIDAS
2 by promising they would earn returns of up to 51% on their “investments.” In addition,
3 promoters told customers they would not have to pay their entire investment until they received
4 tax refunds that would be used to fund the mineral development and production.

5 21. Merendon promoters including Camp told customers that to participate in the MIDAS
6 scheme they first had to become IFFL members for an initial fee of approximately \$1,450 plus
7 an additional \$350 annual fee.

8 22. Once customers joined IFFL, Merendon promoters including Camp advised them to
9 sign the Mining Agreement created and distributed by Merendon, whereby customers agreed to
10 invest a certain amount of funds towards the development of mines purportedly owned and
11 operated by Merendon. The amount of the purported investment was designated as a
12 “developmental expenditure payment” and ranged from several hundred thousand dollars up to
13 \$10 million. According to the Agreement, customers purportedly incurred an obligation to pay
14 Merendon the full amount of their “investment” over ten years.

15 23. Merendon would purportedly use this ten-year period to fund the development of gold
16 mines the company claimed to own. According to the Mining Agreement, customers were to
17 continue making payments for the entire ten-year period, regardless of the amount of ore or
18 minerals actually mined. The Agreement also required MIDAS participants to pay Merendon a
19 “reservation fee” of between one and ten percent of the participants’ total purported investment.

20 24. Despite the language in the Mining Agreement, Camp told potential MIDAS
21 participants that the future investments ostensibly required by the Mining Agreement were not
22 true debts or obligations and that participants were required only to pay Merendon the tax
23 refunds they would receive as a result of their amended tax returns.

24 25. Merendon distributed to participants a memorandum stating that participants were
25 allowed to postpone payment of their reservation fees until after they received tax refunds
26 resulting from the purported mining development deductions.

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1 26. Based on Camp's and other promoters' advice and recommendations, most MIDAS
2 participants paid no money towards their "investment" before they received their tax refunds.
3 Only in isolated instances did customers actually pay any money towards the purported
4 development expenses, but these amounts were well below the total amounts claimed as
5 deductions on these customers' amended income tax returns.

6 27. When questioned by customers about the validity of the scheme, Camp falsely
7 informed them that it was legal to claim these tax deductions in order to obtain refunds, even
8 though he knew customers were spending little or none of their own money for mining
9 development.

10 28. Camp often falsely assured customers that the MIDAS scheme and filing of amended
11 tax returns was "perfectly legal." He told one customer that the worst possible consequence of
12 claiming the deductions was that the customer would be denied the refunds. Camp did not tell
13 customers that they could be subject to penalties or criminal prosecution for failing to accurately
14 report their income and deductions.

15 29. One IFFL structurist told a customer that the actual purpose of the MIDAS scheme
16 was simply to obtain large tax refunds based on their purported investment and to "re-invest"
17 50% of the refund in Merendon. In some cases, structurists admitted to customers that the mines
18 did not actually exist and would never produce any gold or other mineral or ores.

19 30. The Merendon promotional materials that promoters such as Capstick and Camp
20 distributed to customers stated that the gold mines existed and that they contained ore or
21 minerals in commercially marketable quantities. The Mining Agreement also provided that
22 Merendon was the owner of mines or mining interests in Colorado and Arizona. In some
23 instances, promoters showed customers pictures or video falsely purporting to depict mining
24 activity at Merendon's mining sites.

25 31. In actuality, throughout 2002 and at the time when many of the Mining Agreements
26 were signed, Merendon did not own some of the mines listed in promotional materials, and had

1 not secured mining interests in those properties. On information and belief, Merendon had not
2 begun developing mines in any location for the purposes of extracting minerals or ores in
3 commercially marketable quantities. In 2002, Merendon also had not obtained the required
4 mining permits for development in some of its locations.

5 32. After customers agreed to participate in the MIDAS scheme, Merendon promoters
6 advised some customers that they would need to show “active participation” in order to take
7 advantage of the tax deductions to which the promoters claimed the customers were entitled. In
8 order to create the appearance that customers were actively participating in mine development,
9 Capstick advised customers that they needed to visit the mines on trips arranged by Merendon.

10 33. Throughout 2004, 2005, and 2006, Merendon arranged and conducted “investor” mine
11 visits to Broomfield, Colorado and Las Vegas, Nevada. During the site visits, Camp and other
12 Merendon representatives presented information about Merendon’s purported mining projects
13 and showed customers purported gold extracts.

14 34. Although several customers did visit the mines and viewed some gold, Merendon
15 officials did not show customers gold in commercially marketable quantities being either mined
16 or processed at Merendon’s sites. One MIDAS participant described the purported “processing
17 center” at the Jamestown, Colorado mining site as “dilapidated” and “covered in rat droppings.”

18 **Camp’s Tax Return Preparation and Statements**

19 35. Camp continued to promote the MIDAS scheme to customers throughout 2003 and
20 2004, and maintained contact with customers throughout 2006 when he represented them during
21 IRS examinations.

22 36. In order to bolster their false claims that the MIDAS scheme was legal, Camp and
23 other promoters provided some customers with copies of tax opinion letters. The letters, written
24 by persons affiliated with Merendon, advised that the purported development expenses paid by
25 customers were deductible. But the letters made no mention of how customers would be eligible
26 to legitimately claim the I.R.C. § 616 deduction merely by signing the Mining Agreement, or

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1 how the deductions would be valid in 2002 when the Agreements were not signed until 2003 or
2 later.

3 37. Camp prepared an additional opinion letter dated November 1, 2003 in which he
4 represented that he was an accountant and purported to advise Merendon about how customers
5 could report their Merendon “investments” on their tax returns. Camp and other Merendon
6 structurists distributed this letter to customers. The IRS has been unable to find any record that
7 Camp holds a valid state accounting license.

8 38. Camp’s November 1, 2003 letter states that customers should report the purported
9 “mining-development expenses” as losses from their “business activity on a Form, Schedule ‘C’
10 to be included in the respective Form 1040 Tax Returns for calendar year 2003.” But Camp
11 knew customers were not actually engaged in a business activity. Although the letter is dated
12 November 1, 2003 and discusses claiming the mining deductions on 2003 returns, in actuality
13 Camp prepared amended returns for Merendon customers on which he claimed that mining
14 development expenses were incurred in 2002.

15 39. Between 2003 and 2006, in order to further convince skeptical customers of the
16 purported legitimacy of the MIDAS scheme, Camp showed some customers copies of I.R.C.
17 § 616. He then falsely advised customers that because the IRS was “returning their already-paid
18 taxes” exclusively for use as a “mining investment,” the customers would be required to send
19 this money to Merendon otherwise the customers would have to return the refunds to the IRS.

20 40. A common feature of tax-fraud schemes is the promoters’ desire to have customers
21 use tax return preparers who are in on the scheme and will therefore prepare returns consistent
22 with the scheme and not raise questions about its illegality. Capstick and other structurists
23 explained to customers that Merendon recommended “accountants” such as Camp who were
24 familiar with the details of the tax deductions claimed by MIDAS scheme participants. In some
25 instances, structurists told customers that rather than using their regular tax preparer, they were
26 required to use either Camp or Eric Peterson, another tax return preparer, to prepare tax returns

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1 claiming the MIDAS mining deduction.

2 41. Camp asked MIDAS participants to send him copies of their 1997 through 2002
3 federal income tax returns so that he could prepare amended returns for those years claiming the
4 MIDAS deductions. Because many customers had not specified an amount of their purported
5 investment when agreeing to participate in the MIDAS scheme, or had not yet signed the Mining
6 Agreement, Camp in many instances simply made up the amount of the purported investment
7 using the total amount of income customers had received for 1997 through 2002.

8 42. Although Camp was well aware that customers had not made any expenditures
9 towards mining development, and even advised customers that they did not need to make any
10 up-front payments, Camp prepared amended and original tax returns falsely reporting I.R.C.
11 § 616 deductions. Instead of reporting deductions based on amounts customers had actually
12 invested in the mining scheme – which would have been zero in many cases – Camp reported
13 deductions based on the entire amount of customers’ purported ten-year contractual investment.
14 For each customer, Camp prepared an amended 2002 income tax return claiming the total
15 amount of the customer’s purported investments as an ordinary deduction.

16 43. Camp also prepared and filed amended income tax returns for years before 2002,
17 carrying back the “excess losses” for up to five years. In the vast majority of cases, the bogus
18 losses eliminated customers’ tax liabilities for several years.

19 44. Camp falsely reported the § 616 deductions as occurring in tax year 2002. Camp
20 reported all deductions for 2002 because he hoped to take advantage of I.R.C. § 172(b)(1)(H),
21 which allowed net operating losses incurred in 2001 or 2002 to be carried back to each of the
22 five years preceding the loss, rather than the two- or three-year carryback period that would
23 otherwise apply.

24 45. In interviews with the IRS, which was investigating the MIDAS scheme, Camp
25 claimed that MIDAS participants were entitled to the deduction for 2002 because Merendon had
26 “left its books open” and would not close its books until a future date. But under I.R.C. § 616

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1 taxpayers cannot take a deduction for tax year 2002 for money invested in 2003 and 2004, even
2 if they have actually made such expenditures in the later years.

3 46. One Camp customer, a computer programmer from Clyde Hill, Washington paid over
4 \$3 million in federal income tax for the years 1997 through 2002 based on total income of
5 approximately \$8 million reported on his federal income tax returns. After the customer signed
6 up for the MIDAS scheme, Camp, in July 2004, prepared an amended 2002 income tax return for
7 the customer claiming an \$8 million mining deduction for bogus MIDAS expenses. Because the
8 deduction exceeded the customer's income for 2002, Camp prepared amended returns carrying
9 the resulting loss back to previous years, eliminating the vast majority of the customer's income
10 tax liability for 1997 through 2002, and claiming large tax refunds for those years. Camp
11 determined the amount of the customer's purported MIDAS investment based on the amount of
12 income reported and taxes paid in previous years. In actuality, the customer had not paid the \$8
13 million in reported "mining development expenses" in 2002 or any other year. The IRS detected
14 the fraudulent amended returns before it issued the claimed refunds to the customer.

15 47. Camp prepared amended income tax returns for at least 22 MIDAS participants. On
16 each return, Camp fraudulently reported that customers had made mining development
17 investments and reported deductions based on I.R.C. § 616 for the year 2002. For the majority
18 of customers, Camp reported investments exceeding customers' taxable income for the year
19 2002, and carried back the resulting "excess losses" from 2002 to tax years 1997 through 2001.
20 Camp failed to apply these "excess losses" strictly to passive income and instead applied them to
21 his customers' combined passive and non-passive income.

22 48. Camp charged customers several thousand dollars to prepare their returns and
23 amended returns. In one instance, Camp charged a Seattle, Washington customer \$4,000 to
24 prepare five amended tax returns and one original tax return.

25 49. Camp prepared at least 143 amended income tax returns reporting fraudulent
26 deductions related to MIDAS.

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1 Camp's Interference with IRS Investigations

2 50. In 2004 the IRS discovered suspicious amended returns claiming I.R.C. § 616
3 deductions for the MIDAS scheme. The IRS issued summonses to several MIDAS participants,
4 requiring that they provide documents and testimony regarding the purported expenses. In
5 addition, the IRS began investigating the MIDAS scheme itself.

6 51. Between 2004 and 2006, when they received notice that the IRS was investigating
7 their claimed MIDAS deductions, several MIDAS participants contacted Camp. When
8 contacted, Camp falsely told the participants that the scheme was legal and said that the IRS
9 investigations were not unusual.

10 52. For example, sometime in between 2004 and 2006, Camp falsely told a customer that
11 although other MIDAS participants had been audited by the IRS, they had “passed with flying
12 colors.”

13 53. Starting in 2004, several customers, at Camp's suggestion, signed forms authorizing
14 him to represent them before the IRS in connection with IRS audits of their tax returns. Camp
15 represented not only his own return-preparation customers at IRS audits, but also represented
16 other MIDAS participants for whom Peterson, another Merendon return preparer and promoter,
17 had prepared tax returns. During these audits, Camp continued to claim to both the IRS and
18 MIDAS participants that the mining deductions were valid as claimed.

19 54. In a December 7, 2004 meeting with the IRS in connection with its audit of three
20 MIDAS participants, Camp admitted that he had prepared a number of federal income tax returns
21 claiming mining deductions, but he refused to name other customers for whom he prepared
22 similar returns. Camp claimed that Merendon had asked him to appear at the interview in order
23 to explain the transaction and facilitate acceptance of the refund claims. Only on formal request
24 by an IRS Area Director did Camp later supply to the IRS a list of some customers for whom he
25 had prepared tax returns.

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1 55. In the same meeting, Camp claimed that he had researched I.R.C. § 616 extensively
2 and was knowledgeable about preparing amended income tax returns. He falsely stated that the
3 MIDAS program and the federal tax returns he prepared were correct and complied with internal
4 revenue laws regarding mining development investment deductions. He contended that
5 Merendon Mining had “left its books open” for 2002, allowing customers to continue to invest in
6 the program through 2004 and indefinitely into the future.

7 56. In the same meeting, Camp falsely told IRS agents that he was a Certified Public
8 Accountant.

9 57. As a result of its audits, the IRS has determined that all of the amended federal income
10 tax returns Camp prepared for MIDAS participants contain fraudulent deductions based on the
11 mining development scheme.

12 58. Camp and other Merendon promoters continue to advise customers not to agree with
13 the IRS disallowances of their mining expense deductions. Camp advises customers to direct
14 calls from the IRS to him and to wait until the IRS closes their cases as “unagreed.” As a result,
15 the IRS’s investigations of Merendon customers have been significantly delayed and customers
16 have been further injured by the accrual of additional interest and penalties.

17 59. In spite of Camp’s and other promoters’ advice, several of Camp’s customers, after
18 being investigated by the IRS, have acknowledged that they did not make the mining
19 “investments” that Camp reported on their tax returns, and have agreed they are not eligible for
20 the deductions or refunds claimed.

21 60. Although the Merendon Mining Agreement provided that if customers did not make
22 their agreed investment, the unpaid amount would be reported as cancellation-of-debt income, on
23 information and belief Merendon has not actually reported to the IRS any such cancellation-of-
24 debt income to its customers.

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1 **Harm to the United States**

2 61. Camp's promotion of the MIDAS scam and his preparation of false and fraudulent tax
3 returns for MIDAS participants has resulted in significant understatements of customers' tax
4 liabilities.

5 62. Before the IRS became aware that the tax returns Camp prepared were fraudulent, the
6 IRS inadvertently issued refunds to several Merendon customers totaling over \$1 million. The
7 IRS is now spending significant resources attempting to recover the erroneous refunds and
8 ensure that no other erroneous refunds are issued.

9 63. For the 22 customers for whom Camp prepared tax returns that the IRS has identified
10 to date, Camp reported false claims for refund exceeding \$7 million. The IRS estimates that the
11 average fraudulent refunds claim per customer is about \$360,000.

12 **Count I - Injunction under I.R.C. § 7408**

13 64. The United States incorporates by reference the allegations in paragraphs 1 through
14 63.

15 65. I.R.C. § 7408 authorizes a district court to enjoin any person from further engaging in
16 conduct subject to penalty under either I.R.C. § 6700 or § 6701, if injunctive relief is appropriate
17 to prevent recurrence of that conduct.

18 66. I.R.C. § 6700 provides that a penalty will be imposed against any person who (a)
19 organizes or assists in the organization of a partnership or other investment plan or arrangement,
20 or participates directly or indirectly in the sale of an interest in an entity or plan, and (b) makes,
21 or causes to be made, a statement as to the allowability of a deduction or credit, the excludability
22 of any income, or the securing of another tax benefit, because of an interest held in the entity or
23 because of his participation in the plan, that the person knows or has reason to know to be false
24 or fraudulent as to any material matter.

25 67. Camp, in promoting the MIDAS scheme, and advising potential customers that the
26 scheme was legal, made materially false or fraudulent statements to customers regarding the

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1 allowability of tax deductions for mining development expenses and the tax benefits of
2 participating in the scheme. In addition, he made materially false or fraudulent statements
3 regarding customers' liability for personal income taxes. As a self-professed experienced tax
4 return preparer, Camp knew or had reason to know that his statements were false or fraudulent.

5 68. I.R.C. Section 6701 imposes a penalty on any person who aids or assists in, procures,
6 or advises with respect to the preparation or presentation of a federal tax return, refund claim, or
7 other document, while knowing or having reason to believe that such document will be used in
8 connection with any material matter arising under the tax laws, and knowing that if so used it
9 would result in an understatement of another person's tax liability.

10 69. Camp falsely advised customers that the MIDAS tax scheme was legal under I.R.C.
11 § 616 although he knew no participant risked their own money or paid mining development
12 expenditures before taking the deductions.

13 70. Camp also prepared and filed customers' federal income tax returns on which he
14 included inapplicable and fraudulent deductions for mining development expenses. Camp did so
15 knowing that customers would submit the amended tax returns and knowing that the filing would
16 result in understatements of customers' correct tax liabilities.

17 71. Camp engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and is
18 subject to an injunction under I.R.C. § 7408.

19 72. I.R.C. §§ 7408 and 7402 authorize a court to issue orders of injunction as may be
20 necessary or appropriate for the enforcement of the internal revenue laws. Camp, through the
21 actions described above, has engaged in conduct that substantially interferes with the
22 enforcement of the internal revenue laws.

23 **Count II - Injunction under I.R.C. § 7407**

24 73. The United States incorporates by reference the allegations in paragraphs 1 through
25 72.

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1 74. I.R.C. Section 7407 authorizes a court to enjoin a tax return preparer from engaging in
2 conduct subject to penalty under I.R.C. §§ 6694 or 6695 or engaging in any other fraudulent or
3 deceptive conduct which substantially interferes with the proper administration of the internal
4 revenue laws, if a court finds that injunctive relief is appropriate to prevent the recurrence of
5 such conduct.

6 75. In addition, if a court finds that a defendant has continually or repeatedly engaged in
7 such misconduct and that a narrower injunction prohibiting only that specific conduct would not
8 be sufficient to prevent the person's interference with the proper administration of the internal
9 revenue laws, a court may enjoin the person engaged in such prohibited conduct from acting as
10 an income tax return preparer.

11 76. I.R.C. Section 6694, as in effect at the time Camp prepared the MIDAS-related returns
12 for customers, provided that a tax return preparer was subject to penalty if he prepared a return
13 or claim for refund understating a customer's tax liability based on a position for which there
14 was no realistic possibility of the position being sustained on its merits, and the preparer knew or
15 should have known of the position. A return preparer is subject to a larger penalty if the
16 understatement of liability is due to the preparer's willful attempt to understate the liability or the
17 reckless or intentional disregard of rules or regulations.

18 77. Camp willfully and recklessly prepared customers' tax returns containing
19 understatements of liability based on tax deductions that had no realistic possibility of being
20 sustained on the merits. Camp's claiming those deductions was a willful attempt to understate
21 customers' liabilities bases on reckless or intentional disregard of statutes, rules, and regulations.

22 78. Camp prepared amended income tax returns for customers unlawfully claiming
23 mining development expense deductions pursuant to I.R.C. § 616(a) and carried claimed losses
24 back to other tax years.

25 79. I.R.C. Section 616(a) generally allows the deduction of mining development expenses
26 as ordinary expenses rather than as capital expenditures. It provides that a deduction shall be

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1 allowed for all expenditures in a given year made for the development of a mine after ores or
2 minerals in commercially marketable quantities have been disclosed.

3 80. A mining development deduction may be taken only if certain requirements are met:

- 4 (a) before the investment is made, the ore or minerals must exist in
5 commercially marketable quantities sufficient to reasonably justify
6 commercial exploitation; and
- 7 (b) the primary objective of the mining venture must be to make a profit; and
- 8 (c) the taxpayer must have in fact paid or incurred the expenditures for which
9 the deduction is claimed, I.R.C. § 461(h); and
- 10 (d) the investment must be for development expenditures rather than
11 production expenditures; and
- 12 (e) the expenses paid or incurred towards mining development expenses must
13 have occurred during the taxable year; and
- 14 (f) for passive investment activity, losses are only deductible against passive
15 income, I.R.C. § 469; and
- 16 (g) losses are limited to the aggregate amount for which the taxpayer is at risk
17 of real economic loss, I.R.C. § 465.

18 81. The tax deductions Camp reported on customers' returns for purported expenditures
19 do not meet any of the above factors. Further, the deductions he reported had no realistic
20 possibility of being sustained on the merits. Thus Camp engaged in conduct subject to penalty
21 under I.R.C. § 6694.

22 82. Camp prepared customers' amended federal income tax returns by fraudulently
23 reporting deductions for mining investments with Merendon when ore and minerals were not
24 disclosed at the Merendon sites in commercially marketable quantities sufficient to reasonably
25 justify commercial exploitation.

26 83. The Merendon prospectus Camp provided to customers contained two valuations,
27 dated 1994 and 1989, of the lands Merendon claimed to have rights to mine. The 1994 report
28 stated that the maximum gross value of the recoverable minerals or ores was approximately \$528
million, even though Merendon claimed to seek total participant investments of \$1 billion.
Mineral quantities of only \$528 million are not sufficient to reasonably justify commercial
expenditures of \$1 billion for development and extraction.

1 84. Furthermore, though the 1989 report showed that the properties contained a “possible”
2 gross value of various minerals totaling \$2.1 billion, the Merendon report disclosed that the
3 properties contained “probable” reserves of only \$18.6 million and \$4.5 million of “proven”
4 reserves. Because possible reserves cannot be used in the direct evaluation of a mineral deposit,
5 the total value of the potentially recoverable minerals in the 1989 report was \$23.1 million.
6 Neither the 1994 nor 1989 prospectus disclosed ore or minerals in commercially marketable
7 quantities sufficient to justify exploitation. On information and belief, no further mineral
8 deposits have been disclosed at Merendon’s properties.

9 85. The deductions Camp claimed on customers’ returns were also not valid under I.R.C.
10 § 616 because the MIDAS scheme’s primary objective was not to generate profits, but to recover
11 fraudulent tax refunds. As discussed above, Merendon’s claimed expected recovery was
12 unrealistic and was in any event only slightly more than half of the total capital it sought from
13 investors. At least one structurist candidly told customers that the entire scheme was to be
14 funded by tax refunds received after customers submitted false deductions for mining expenses.

15 86. Camp engaged in I.R.C. § 6694 penalty conduct by reporting deductions for amounts
16 that were never actually paid or incurred. In 2003 or 2004, Camp’s customers signed sham
17 Mining Agreements purportedly obligating them to pay amounts over ten years. In reality, the
18 vast majority of Camp’s customers never actually paid any money to Merendon, much less the
19 entire agreed amount. Most amounts customers paid to Merendon were for membership or tax
20 preparation fees, or to buy other Merendon products unrelated to the MIDAS scheme.

21 87. MIDAS investors similarly did not incur any losses from their purported investments.
22 Pursuant to I.R.C. § 461(h), economic performance must have occurred before an expense will
23 be considered “incurred.” Economic performance occurs when a service or property is provided
24 to the taxpayer. Merendon customers were not provided a service because Merendon never
25 notified customers of any development actions taken towards the extraction of ores or minerals.
26 Specifically, they did not notify customers that any economic performance had occurred.

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1 88. In some cases, Merendon could not even have taken any development actions because
2 it did not own the land or possess the necessary permits to conduct any mining development or
3 extraction. On information and belief, Merendon did not acquire several mining permits until
4 December 30, 2003, and could not have legally delivered any mining development services
5 before then. As of October 2005, all of Merendon's mining permits had been revoked or
6 terminated. Further, while Merendon did purchase two parcels identified as Buena Lode and
7 New Rival Lode (Black Rose) for purported mining, the purchases took place on January 20,
8 2005.

9 89. Merendon has failed to provide to the IRS evidence supporting any actual services or
10 properties that would substantiate the purported mining expenses Camp falsely reported that
11 Merendon customers had incurred.

12 90. Camp fraudulently reported that customers were eligible for the I.R.C. § 616
13 deduction for the year 2002, and carried back the reported losses to previous tax years, and
14 forward to future years in some cases. Yet, none of their Merendon customers made any
15 payments or even entered into the MIDAS contracts until 2003 and 2004. A deduction under
16 I.R.C. § 616 is valid only for expenses incurred during the taxable year for which they were
17 claimed.

18 91. The mining deductions Camp reported were also invalid because the deductions
19 concerned funds that, if actually committed, would be properly characterized as production
20 expenses, rather than development expenses. A development expenditure is one made to attain
21 an intended output whereas a production expenditure is one made to maintain an output.
22 Development expenditures, which are deductible under I.R.C. § 616, are intended to relate to an
23 entire mineral deposit or a large area of a deposit such that they provide benefits extending over
24 relatively long periods of extraction of the ore or mineral. Production costs, which are not
25 deductible under I.R.C. § 616, are directly related to the mining and extraction of a particular
26 increment of the mineral or ore.

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1 92. Merendon sought investment for disused mines for which many of the development
2 costs had already been incurred by the previous purchaser. Thus, any “investments” MIDAS
3 participants made would have been applied to the production of minerals and ores, rather than
4 site development.

5 93. Camp prepared tax returns unlawfully offsetting customers’ non-passive income using
6 the claimed I.R.C. § 616 deductions, rather than applying the net-operating losses relating to the
7 purported mining development expense strictly to similarly passive income. Losses from a
8 business in which a taxpayer does not materially participate cannot be used to reduce non-
9 passive income, pursuant to I.R.C. § 469. Merendon customers did not participate in the
10 operation or functioning of Merendon Mining, the IFFL, or the purported gold mines, other than
11 to sign the “Mining Agreements.” Although some customers did visit mine sites, they did not
12 work on a regular, continuous, and substantial basis for or on behalf of Merendon, as required to
13 show material participation in an activity.

14 94. Finally, Camp unlawfully reported deductions and refunds exceeding the amounts for
15 which customers were actually “at risk.” Pursuant to I.R.C. § 465(b)(1)(B), investors can only
16 claim deductions if they are personally liable on the debt or have pledged property to secure a
17 debt. Camp’s customers were not at risk because Merendon never intended to and has never
18 sought to collect amounts customers purported to contract to pay, but never actually paid. In
19 fact, structurists provided Merendon customers with letters advising them not to pay the
20 contracted amounts until customers received the claimed federal income tax refunds. Although
21 the Mining Agreements purported to obligate customers to pay the amounts listed on the
22 contracts, promoters told customers that they were not required to make any payments other than
23 the amounts received as tax refunds. Camp’s customers were not at risk of real economic loss
24 because they did not actually pay money to the Merendon investment scheme, and at the time the
25 deductions were claimed, Merendon did not actually intend for customers to make any payments.

1 95. The mining deductions promoted and reported by Camp on at least 143 federal
2 income tax returns were not valid under I.R.C. § 616(a) for numerous reasons. Camp, as a
3 professional tax preparer, knew or had reason to know that the deductions were invalid because
4 he knew the customers had not made any payments, that sufficient quantities of minerals and
5 ores had not been disclosed, and knew that no development activities had taken place in 2002.
6 Furthermore, Camp knew or should have known that any such investments by customers would
7 be considered passive activities not usable to offset customers' non-passive incomes. This
8 requirement was specifically discussed in the letter Camp prepared and distributed to MIDAS
9 participants.

10 96. Camp is subject to penalty under I.R.C. § 6694 because he knew or had reason to
11 know that the tax positions taken on his customers' amended tax returns had no realistic
12 possibility of being sustained on their merits. Camp has interfered with the administration of the
13 internal revenue laws by preparing false tax returns and fraudulent claims for refunds. Camp is
14 subject to an injunction under I.R.C. § 7407.

15 97. An injunction is necessary to prevent Camp from further engaging in violations of
16 I.R.C. § 6694 because he has prepared numerous returns containing the same fraudulent claims
17 for refund. He has exacerbated his unlawful conduct by advising customers not to agree to the
18 IRS' position and to maintain that the tax returns were valid.

19 98. An injunction prohibiting only Camp's preparation of returns understating taxpayers'
20 liabilities and including unrealistic positions is not sufficient to prevent him from further
21 interfering with the proper administration of the internal revenue laws. Rather, he should be
22 permanently enjoined from acting as a tax preparer.

23 **Count III - Injunction under I.R.C. § 7407(b)(1)(B)**

24 99. The United States incorporates by reference the allegations in paragraphs 1 through
25 98.

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1 100. Camp is also subject to injunction under I.R.C. § 7407(b)(1)(B), for misrepresenting
2 his experience or education as an income tax preparer. I.R.C. § 7407(b)(1)(B) authorizes a court
3 to enjoin an income tax return preparer from misrepresenting his eligibility to practice before the
4 IRS or otherwise misrepresenting his experience or education as an income tax return preparer, if
5 a court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

6 101. In documents submitted to Merendon customers and in advertisements on Camp's
7 website and elsewhere, Camp has held himself out to be an accountant. The IRS has been unable
8 to locate evidence of any accounting license or certificate held by Camp in any state or the
9 District of Columbia.

10 102. Camp continues to advertise his accounting services to this date and is subject to an
11 injunction for misrepresenting his qualifications, experience, and education. An injunction
12 preventing Camp from continuing to misrepresent his education and qualifications is necessary
13 to prevent such conduct from recurring.

14
15 WHEREFORE, the Plaintiff, United States of America, respectfully prays for the following:

16 A. That the Court find that Camp has continually and repeatedly engaged in conduct
17 subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes
18 with the administration and enforcement of the internal revenue laws;

19 B. That the Court find that Camp has continually and repeatedly engaged in conduct
20 subject to penalty under I.R.C. § 6694;

21 C. That the Court find that injunctive relief is appropriate under I.R.C. §§ 7402, 7407,
22 and 7408 to prevent Camp, and anyone acting in concert with him, from further recurrence of
23 such conduct;

24 D. That the Court enter a permanent injunction pursuant to I.R.C. §§ 7402 and 7408,
25 prohibiting Camp from directly or indirectly:

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- 1 (a) Organizing, promoting, or selling the Mining Interest Development Action
2 Strategy (MIDAS) program associated with Merendon Mining, Inc. and
3 its subsidiary corporations;
- 4 (b) Making false or fraudulent statements, in connection with the organization
5 or sale of any tax shelter, plan, or other arrangement, about the
6 allowability of any deduction or credit, the excludability of any income, or
7 the securing of any other tax benefit by reason of participating in the tax
8 shelter, plan, or other arrangement;
- 9 (c) Organizing, promoting, selling, or advising participation in any other tax
10 shelter, plan, investment, business venture, or arrangement that makes
11 false or fraudulent representations about federal tax benefits or treatment
12 because of participation in such tax shelter, plan, investment, business
13 venture, or arrangement;
- 14 (d) Causing or assisting other persons and entities to understate their federal
15 tax liabilities and avoid paying federal taxes;
- 16 (e) Engaging in any other conduct subject to penalty under I.R.C. § 6700,
17 including making or furnishing, in connection with the organization or
18 sale of a shelter, plan, or arrangement, a statement that he knows or has
19 reason to know to be false or fraudulent as to any material federal tax
20 matter, or by making a gross valuation overstatement; and
- 21 (f) Engaging in conduct subject to penalty under I.R.C. § 6701, including
22 preparing or assisting others in the preparation of any tax forms or other
23 documents to be used in connection with any material matter arising under
24 the internal revenue laws and which he knows will (if so used) result in
25 the understatement of another person's tax liability.

26 E. That the Court enter a permanent injunction pursuant to I.R.C. § 7407 prohibiting
27 Camp from directly or indirectly:

- 28 (a) Preparing or assisting others in the preparation of any tax forms or
documents on behalf any other person or entity including a claimed
deduction under I.R.C. § 616 for which the taxpayer has not made any
mining development investment;
- (b) Engaging in any conduct subject to penalty under I.R.C. § 6694, including
preparing tax returns for customers where there is no reasonable belief
that the position would more likely than not be sustained on its merits;
- (c) Preparing or filing, or helping others to prepare or file, federal tax returns,
amended returns, or any other tax-related documents or forms for anyone
other than himself.

1 F. That the Court enter a permanent injunction pursuant to I.R.C. § 7407(b)(1)(B)
2 prohibiting Camp from:

- 3 (a) Falsely representing himself to be an accountant or other tax professional;
4 and
5 (b) Falsely representing his experience or education as an income tax return
6 preparer.

7 G. That the Court order Camp to turn over to counsel for the United States a list of the
8 names, addresses, e-mail addresses, phone numbers, and Social Security numbers of all
9 customers:

- 10 (a) To whom he promoted, sold, or marketed the MIDAS scheme;
11 (b) For whom he created, prepared, or filed a federal tax return claiming an
12 I.R.C. § 616 deduction; and
13 (c) Affiliated with Merendon whom he advised, counseled, or otherwise
14 assisted regarding the preparation of federal tax returns or advised
15 regarding their tax liability.

16 H. That the Court order Camp to inform all persons described in paragraph F above of
17 the entry of the Court's findings and injunction, that their tax returns are likely false, that they
18 may be subject to penalties because of the fraudulent tax returns;

19 I. That the Court order Camp to complete the requirements listed in paragraphs G and H
20 within 20 days of the Court's permanent injunction and file a certificate of compliance signed
21 under penalties of perjury, along with evidence of compliance, within 20 days of the Court's
22 permanent injunction;

23 J. That the Court allow the United States full post-judgment discovery to monitor
24 compliance with the injunction;

25 K. That the Court retain jurisdiction over this action for purposes of implementing and
26 enforcing the final judgment and any additional orders necessary and appropriate to the public
27 interest; and

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1 L. That the Court grant the United States such other and further relief, including costs, as
2 the Court deems appropriate.

3
4 Dated this February 20, 2008.

5 Respectfully submitted,

6 JEFFREY C. SULLIVAN
7 United States Attorney

8 ROBERT BROUILLARD
9 Assistant United States Attorney

10 s/ Jacqueline C. Brown
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