

CAROLINE D. CIRAULO  
Principal Deputy Attorney General

RICK WATSON  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-0683  
Telephone: (202) 353-0300  
Email: [Rickey.watson@usdoj.gov](mailto:Rickey.watson@usdoj.gov)

*Of Counsel*  
MICHAEL COTTER  
United States Attorney  
District of Montana  
*Attorneys for the United States of America*

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

IN THE MATTER OF THE TAX  
LIABILITIES OF:

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

Civil No. \_\_\_\_\_

**DECLARATION OF RANDY HOOCZKO**

I, Randy Hoozko, pursuant to 28 U.S.C. Section 1746, declare and state:

1. I am a duly commissioned Internal Revenue Agent (“Revenue Agent”) assigned as a Senior Revenue Agent in the Internal Revenue Service’s (“IRS” or “the Service”) Offshore Compliance Initiatives Program. The Offshore Compliance Initiatives Program develops projects, methodologies, and techniques for identifying United States taxpayers who are involved in abusive offshore transactions and financial arrangements for tax avoidance purposes. I have been a Revenue Agent since 1985, and have specialized in offshore investigations since 2002. As a Revenue Agent, I have received training in tax law and audit techniques, and have received specialized training in abusive offshore tax issues. I also have experience in investigating offshore tax matters, including undeclared foreign foundations, trusts, and accounts, as well as taxpayers who use offshore credit cards to access funds in undeclared foreign accounts.

2. Since February 2011, I have been assigned to work on the Service’s Offshore Private Banking Initiative and Offshore Merchant Account Initiative. Prior to that, for approximately one year, I was assigned as a Technical Advisor to agents reviewing Offshore Voluntary Disclosure submissions. The Offshore Private Banking Initiative addresses the use of offshore bank accounts by U.S. taxpayers to evade or improperly avoid the payment of U.S. income tax. The Offshore Merchant Account Initiative addresses the use of offshore merchant

accounts by U.S. taxpayers to evade or improperly avoid the payment of U.S. income tax.

3. In my capacity as a Revenue Agent, my duties include conducting examinations (audits) of taxpayers to determine their correct income tax liability. I have conducted examinations of taxpayers that established offshore foundations, which are generally taxable as foreign trusts for U.S. tax purposes, to conceal their beneficial ownership of foreign assets. I have conducted penalty investigations involving the failure to file information returns such as Forms 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts; Forms 3520-A, Annual Information Return of Foreign Trust with a U.S. Owner; Forms 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations; and Forms TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”).<sup>1</sup> I have conducted examinations of taxpayers who have used credit cards issued by offshore banks to access funds in offshore accounts. I have assisted other Revenue Agents in numerous similar examinations and investigations.

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<sup>1</sup> Effective for 2013, Report of Foreign Bank and Financial Accounts, commonly known as an “FBAR,” is now reported on FinCEN Form 114 (a.k.a. FinCEN Report 114). Prior to FinCEN Form 114, an FBAR was reported on Form TD F 90-22.1.

4. I am currently assigned to a project involving an offshore services provider in Panama named Sovereign Management & Legal, Ltd. (“SML”) in which the Service has served John Doe summonses on eight third parties in the United States with the approval of the United States District Court for the Southern District of New York. As will be explained in detail below, the summonses were served in an effort to identify U.S. taxpayers who used the services of SML to create entities and open offshore financial accounts for the purpose of concealing assets and income from the Service. In reviewing the data received from those summonses, the Service identified an additional source of information on United States taxpayers using debit cards to access offshore accounts in the person of a Michael A. Behr, who appears to administer a portion of SML’s business relating to a product named “Sovereign Gold Card” from his residence in Bozeman, Montana. The Service proposes to serve an additional John Doe summons on Mr. Behr for records in his possession, custody, or control that will facilitate the identification of U.S. taxpayers who use offshore debit cards offered by SML, such as the Sovereign Gold Card, to conceal assets and income from the Service.



## **Background**

5. The Service has long been concerned with the problem of United States taxpayers – whether involved in lawful or unlawful activities – evading their United States tax obligations by concealing unreported taxable income in accounts in offshore no-tax, low-tax, or financial secrecy jurisdictions. That problem has been described in detail in a number of reports, including Crime and Secrecy: The Use of Offshore Banks and Companies, S. Rep. No. 99-130 (1985); United Nations' Office for Drug Control and Crime Prevention, Global Programme Against Money-Laundering, Financial Havens, Banking Secrecy and Money Laundering (May 29, 1998) at <http://www.imolin.org/imolin/finhaeng.html>; and Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, Tax Haven Banks and U.S. Tax Compliance, S. Hrg. 110-614 (2008) at <http://purl.access.gpo.gov/GPO/LPS109146>.

6. Since 2000, the Service has conducted thousands of examinations in cases developed through John Doe summonses issued as part of its Offshore Compliance Initiatives. Experience in those examinations has shown that:

a. Offshore tax evasion almost always involves a foreign financial account.

b. Offshore tax evasion often involves an offshore entity (e.g., corporation, trust, foundation) or structure of entities. These entities are typically controlled through nominee directors and/or compliant trustees, and are used to conceal the taxpayer's beneficial ownership of offshore, and sometimes domestic, accounts and assets.

c. Taxpayers forming or acquiring offshore entities or structures, or opening offshore bank accounts, often use the services of offshore trust and corporate service providers who advertise that they do the following:

- i. open bank accounts;
- ii. create corporations, trusts, and foundations; and
- iii. serve as nominee directors, officers, and trustees for the beneficial owners.

d. Taxpayers with offshore financial accounts often transfer funds to, and receive funds from, their offshore banks through U.S. correspondent accounts maintained by the offshore banks at U.S. banks.

7. In addition to its examination experience, the Service has received in excess of 55,800 voluntary disclosures from taxpayers with offshore accounts and entities in a series of Offshore Voluntary Disclosure Programs announced as opportunities for taxpayers to self-disclose tax non-compliance involving offshore accounts and arrangements in exchange for limits on their exposure to criminal and

civil penalties. In addition, another 48,000 taxpayers have made use of separate streamlined procedures to correct prior non-willful omissions and meet their federal tax obligations. Taxpayers making voluntary disclosures under the Service's recent offshore voluntary disclosure initiatives have reported the use of undisclosed bank accounts in over 600 banks, or branches of banks, in jurisdictions throughout the world. Many of these offshore accounts were held through shell companies or trusts, or employed other arrangements to conceal the beneficial owner. Many taxpayers used the services of offshore trust and corporate service providers to establish their offshore arrangements.

8. One device for repatriating funds accumulated in offshore bank accounts is the use of credit cards issued by offshore banks and paying the balances owed on those cards from the offshore funds. This device was the subject of the Service's Offshore Credit Card Project ("OCCP") under which over 130 John Doe summonses were approved by district courts around the country. As a result of examinations conducted under that project, I know that such cards are used extensively to covertly gain access to untaxed offshore funds. The Service's experience with examinations in the OCCP revealed that the use of payment cards (including credit, charge, and debit cards) linked to offshore banks is a means of obtaining access to undeclared offshore funds. This is a common practice promoted by offshore professionals and used by persons with offshore accounts.



Additionally, 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 (May 29, 1998) at <http://www.imolin.org/imolin/finhaeng.html>, discussing the use of cards as a repatriation device, that states: "Credit and debit cards are the way people who have laundered money draw ready cash without leaving a financial trail. As one advertisement for a bank put it, it is the best way to stay in touch with your offshore account."

**Sovereign Management & Legal, Ltd.**

9. Sovereign Management & Legal, Ltd. ("SML") is a multi-jurisdictional offshore services provider that provides comprehensive entity formation and management services through its Panama lawyer associates as well as through outlets in other jurisdictions such as Belize and Hong Kong. SML has been in the business of offshore incorporations in Nevis since 1996 under the name "Sovereign Management Services, S.A." It established its flagship management and legal services company in Panama in 2002. SML appears to operate under several additional names, including Sovereign Management & Legal Realty; Sovereign Law Center; International Corporate Services, Ltd; Belize Offshore Solutions Limited; and Atlas Corporate & Trust Limited. Sovereign Management



& Legal, Ltd., its predecessors, subsidiaries, and affiliates are hereafter collectively referred to as "SML."

10. SML has been of interest to the Service for some time because of its Internet promotions of services directed at concealing its clients' beneficial ownership of offshore assets.

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

According to SML's website's homepage as of June 8, 2016, SML offers a variety of offshore services, including company formations, trusts and foundations, offshore bank and brokerage accounts, offshore shelf corporations, and anonymous offshore ATM/debit cards called "Sovereign Gold Cards." See Exhibit 1.

### **Operation Adam Bomb**

12. In May 2011, the Service was approached by agents of the Drug Enforcement Administration (DEA) with information indicating that SML was involved in assisting U.S. clients with tax evasion. DEA advised that they had an on-going investigation of on-line marketplaces for narcotics trafficking known as "Operation Adam Bomb." One focus of that investigation was the services provided by SML to the drug traffickers in moving money through accounts controlled by SML in Panama to pre-paid debit card accounts accessible by the drug traffickers. In the course of its investigation, DEA learned that SML and its U.S. customers were attempting to conceal funds from revenue authorities. At the

time DEA brought the information to the Service, DEA's investigation was still covert, and DEA asked that the Service refrain from any public action until DEA's investigation reached a public stage.

13. In late April 2012, DEA made an arrest of a key defendant in Operation Adam Bomb, and the indictment of that defendant was unsealed in United States v. Willems et al., Case No. 2:11-cr-01137-DMG (C.D. Cal) ("Willems"). A copy of the Willems indictment is attached as Exhibit 2.

14. According to the Willems indictment, through approximately 2009, an on-line controlled substances marketplace, which went by the name "Adamflowers," operated primarily via the e-mail address Adamflowers@Hushmail.com. The operators initially used Hushmail for all communications and orders. Hushmail is a web-based service that offers encrypted electronic and instant messaging.

15. SML's "Contact Us" webpage, attached as Exhibit 3, lists a Hushmail address for SML (SMS@hush.com) and encourages readers to set up their own Hushmail encrypted email accounts. SML's website's homepage, accessed on January 29, 2013, mentions Hushmail as a secure way of communicating in absolute privacy with SML. See Exhibit 4.

16. In approximately January 2010, to improve anonymity, the operators involved in Willems moved their on-line controlled substances marketplace to the TOR network. See Exhibit 2, p. 4. TOR allows websites

and electronic mail communications to completely mask IP address information by spreading communications over a series of computer, or relays, located throughout the world. See Exhibit 2, pp. 4 – 5, ¶7.

17. According to the indictment, defendant Willems instructed customers wishing to purchase controlled substances from the on-line marketplaces to send payments via Western Union to accounts held by SML in Budapest, Hungary. See Exhibit 2, p. 8, ¶6; p. 33, ¶142; p. 47, ¶218. SML would then transfer the funds to a pre-paid debit card account accessible by defendant Willems. Id. According to the indictment, DEA documented hundreds of such transactions involving hundreds of thousands of dollars. On September 2, 2014, defendant Willems pleaded guilty to federal drug trafficking and money laundering charges in the United States District Court in Los Angeles, California. On December 10, 2014, he was sentenced to 121 months in prison.

18. The Service also learned from DEA that two brothers, Dwayne Alan Skiles and Lance Edward Skiles, were associated with SML. In June 2011, Dwayne Skiles was charged with conspiring to sell counterfeit Viagra through ads on Craigslist in United States v. Skiles, Case No. 8:11-cr-00500-JFM (D. MD). According to the Affidavit in Support of Criminal Complaint (the “Skiles affidavit”), payment for sales of counterfeit Viagra were sent to Dwayne Skiles through Western Union. See Exhibit 5. In September 2011, Dwayne Skiles



pleaded guilty to one count of conspiracy to traffic in counterfeit goods. On April 19, 2012, both Dwayne and Lance Skiles were gunned down while they were leaving a restaurant in Panama City, Panama. The Skiles affidavit further alleges Dwayne Skiles sometimes worked with an individual named Michael Knott, who is married to Sarah Anne Knott, and identifies Sarah Anne Knott as a co-conspirator. In January 2011, Sarah Anne Knott was charged with trafficking in counterfeit goods (Viagra tablets). See United States v. Knott, Case No. 8:11-cr-00220-JFM (D. Md.). In April 2011, Sarah Anne Knott pleaded guilty to that offense, and in August 2011, was placed on probation for two years.

#### **Additional SML Websites**

19. I initially accessed SML's website in 2012 and 2013 in connection with an earlier group of John Doe summonses approved by the United States District Court for the Southern District of New York on December 18, 2014; however, SML's website design has since changed. According to SML's website's homepage as of January 29, 2013, attached as Exhibit 4, SML offers formation and administration of anonymous corporations and foundations in Panama and other offshore locations, international business companies ("IBC"), third-party account signatory services, captive insurance companies, offshore merchant account services, and prepaid debit cards (i.e., the Sovereign Gold Card). SML also offers services related to anonymous banking, offshore bank accounts, and offshore trusts and foundations, as well as a variety of services to assist clients in the maintenance and operation of their offshore structures,



including mail forwarding, virtual office, and re-invoicing services. See Exhibit 4. SML's "About Us" webpage states, that it can offer a "'one-stop-shop' – all protected via attorney-client confidentiality." See Exhibit 6. That webpage also states: "Your confidentiality is protected in your dealings with us, whether it be incorporation, assistance with bank account openings, administration or other legal services by strictly observed attorney-client privilege." Id. These services are directed at concealing the clients' actual beneficial ownership of their assets.

20. Among the devices for concealing clients' ownership while maintaining complete control of their assets are nominee officers and bearer shares. On a webpage entitled "Offshore Professional Management," SML states:

Appointing a professional management firm that will manage your non-controlled corporation provides you with the maximum protection on all fronts.

To ensure the safety and security of the corporate assets, so that you don't have to have any exposure as a director of the IBC, the professional managers appoint themselves as directors of the corporation.

This may be important, because even if you are clearly not a shareholder, the mere fact of being an officer may offer the appearance that you, in reality, still control the assets and thereby still retain a beneficial interest in them.

A court could easily still compel you to repatriate the assets since you still control them. The onus would be on you to then prove to the court why you are not able to comply - not a pleasant prospect to consider.

Our firm can provide such management options and give you the piece [sic] of mind that you still have the ultimate authority in regards to your assets.

The most common way of doing this, is for the corporate nominee directors to provide you with a Power of Attorney in all matters related to the running of the corporation.

This will allow you to act in the place of an officer of the company without actually being one. You can sign agreements or open accounts on behalf of the company or anything else that is required for the day-to-day business of the company. For many situations, this will give you a high level of protection, but still provide you control over the company.

Exhibit 7.

21. SML's homepage as of June 8, 2016 listed their most popular offshore company formation options and offshore company-bank account packages, including pricing. See Exhibit 1. Three of these packages are listed below.

a. Panama Corporation owned by Panama Foundation + Bank Account Package (\$3,300). This package is described as “an offshore legal structure wherein a Panama Private Interest Foundation or a Panama Charitable Foundation is formed and put in place to act as a shareholder of the IBC. Ownership of the IBC is thereby divested to another legal entity (the Panama foundation).” See Exhibit 8. Under the “Tax Evasion vs. Tax Optimization” section of that webpage, SML goes on to explain “[t]his puts ownership into the hands of another legal entity, away from the actual beneficial owner. So long as it is possible to prove, (or impossible to disprove) that the Foundation is acting as the agent of the client in forming the corporation, it is truly non-controlled.” See Exhibit 9. Finally, the webpage section “Why Choose a Panama Foundation with IBC Package” advises:

The shareholder foundation can also be set up, just to be on the safe side, with a charitable beneficiary. This is done to confirm – even in the unlikely event that you are forced to prove (in your home country) that you are not the main beneficiary – that the assets are held for the benefit of a charity. Nobody ever questions legitimate charities as beneficiaries of a foundation.

Setting up offshore foundations and trusts, whose primary aim appears to be philanthropic, is a savvy and indeed 'politically correct' way to organize one's offshore assets, even if only a little actually goes to the charity.

Exhibit 10.

b. Hong Kong Corporation + Corporate Bank Account Package (\$2,850). This package offers anonymous corporations with an account “plus nominee director and shareholder service for complete anonymity.” The “bullet proof” anonymous corporation combined with a Panama foundation package allows for direct control of the company through the foundation. SML suggests that “[c]ompany income can be ‘donated’ into the foundation and the foundation used for a myriad of purposes.” The package includes a pre-paid debit card and credit card options. See Exhibit 11. One of the listed advantages of forming an offshore company in Hong Kong is “[g]ood banking secrecy. The company can be anonymous if you use our nominee director/shareholder services or set up a foundation to own all the shares in the company.” See Exhibit 12.

c. Ready-to-go SHELF Corporation with Bank Account (\$2,975). With respect to this package, SML states: “Sovereign offers a variety of shelf companies and foundations with incorporation dates going back as far as 2003 for



Panama, Nevis, Belize and Seychelles, all ready for immediate delivery. Price will depend on age, but for recently formed companies starts at only \$300 above the regular price for most recently formed entities.” These companies are advertised as being available with “Nominee Director service – Continue to use Sovereign’s existing nominee directors; includes apostilled Power of Attorney and undated signed resignations. This is a recurring annual expense.” See Exhibit 13. Based on my experience, the use of “shelf” or previously formed corporations is a common practice designed to create the false impression that the offshore entity was in business prior to the beneficial owner’s involvement.

22. Many of the packages offered by SML involve various combinations of bank accounts owned by entities, which are in turn owned by other entities, all in different jurisdictions and all controlled by nominees on behalf of the true beneficial owner. The point of such an arrangement is described on SML’s “Offshore Asset Protection” webpage in a section entitled “Breaking the Paper Trail:”

For protection of liquid assets it is vital to only use countries with strict financial privacy and to employ a means of breaking the paper trail that follows in the wake of a transfer out of your own country.

The most effective way in dealing with this is using our multi-jurisdictional approach where one or more structures are set up with a bank account in a different country. Transfers out of your country first go to a different company bank account and country where they reside for a few months to keep that bank happy.



Little by little then, some or most of the funds can be then forwarded on to another company in a different country or they could go to a separate brokerage account held in another country such as Panama that has strict financial privacy. The banking secrecy in the first jurisdiction will prevent investigators discovering the ultimate destination of the funds in the second jurisdiction.

We have created a special package known as the multi-jurisdictional company / banking package that utilizes two different companies, one set up in Panama, the other in Belize, each with their own bank account in those respective countries.

Both companies are owned by the Panama foundation, which also can be a very useful vehicle for the repatriation of funds by the way of gifts to your children for instance as well as to manage and plan your global estate.

Exhibit 14.

23. SML's "Offshore Account Signatory Services" webpage as of June 13, 2016 states that "our firm can act as a trusted third party that can retain control of the accounts on behalf of the beneficial owner." This service is described as providing the beneficial owner:

with the needed extra element of removal from your assets if needed, so that your official legal capacity is one of a 'behind the scenes advisor' only. You neither own nor 'control' the assets in any function. However, in order not to be named as a beneficiary in any way you would then need to appoint your own, which could be another family member for instance.

See Exhibit 15. My experience in offshore issues indicates that the beneficial owner, while claiming to be "removed" from the foreign assets or entities, in fact retains control over such assets or entities through other means such as a side agreement with the service provider. On its "Offshore Account Signatory

Services” webpage accessed on September 16, 2014, SML states that its services “[h]elp you avoid foreign account reporting requirements that many countries now have (such as the USA and Germany)” and that “it is unlikely, unless you are careless, that such information will ever reach the authorities.” See Exhibit 16.

24. SML’s “Panama Private Interest Foundation” webpage offers new and ready-made foundation packages either with or without bank accounts. In the section entitled “Top Uses of Panama Foundations,” SML touts foundations as a way to avoid tax reporting with respect to controlled foreign corporations (“CFCs”). According to SML:

In general, you may want to consider a PPIF [Panama Private Interest Foundation] if you wish to control and maintain ownership of foreign corporations, however, you do not wish to own your corporations directly, due to the Controlled Foreign Corporation (CFC) rules in your home country.

Several highly taxed countries (such as the ...USA ...) have strict CFC rules. These rules require that their citizens submit declarations (reports) to the appropriate tax authorities, wherein they declare that they are the shareholders of such foreign corporations.

Exhibit 17. Based on my knowledge and experience, holding stock through a nominee is ineffective to avoid the CFC reporting rules. Nevertheless, SML claims:

Instead of holding the corporations' shares in their personal name or in bearer form, they establish a Private Interest Foundation in Panama that holds or owns the shares of their foreign corporation(s), thus avoiding the CFC reporting rules. Hence, the advantage of using the Foundation as a

shareholder for their corporation is to remove ownership from one's personal name (or through a Bearer Share arrangement).

This ownership is transferred to the name of a foreign entity, which does not have owners, rather has privately appointed beneficiaries, which are anonymous. In this way, there is no question as to who owns the company, since the company's shares are issued to the Foundations' name.

Exhibit 17.

25. SML's "Mail Receiving and Forwarding" webpage describes that SML will hold or forward mail based on the client's instruction, and the fee for mail forwarding is \$250 per year plus actual forwarding costs. The fee for sending packages (listed in U.S. dollars) is around \$50 for courier service or \$10 for postal service. A copy of SML's "Mail Receiving and Forwarding" webpage is attached as Exhibit 18. SML advertises:

In order to complement the proper establishment of their corporate offshore identity, our clients usually like to establish an efficient mail forwarding service with both a physical address for the receipt of packages sent by courier services such as DHL and Fedex, as well as a Post Office Box for receipt of mail. For the latter we offer options in both Miami as well as Panama City.

Exhibit 18.

26. SML's webpage entitled "Banking & Investing" discusses means of maintaining secrecy of one's offshore bank accounts. A copy of SML's "Banking & Investing" webpage is attached as Exhibit 19. SML warns that moving funds in and out of an offshore account in one's personal name creates records that associate your name with the account and "broadcast to the world" that you are the owner of the account. According to SML:



[I]t is imperative that the account be opened in the name of a company, foundation or possibly a trust rather than your personal name. Yes, as signatory on the account you will be still known to your bank, but your account will be anonymous to the world, so long as you bank in a country that still does not routinely share information with foreign governments and private investigators.

Exhibit 19. SML further states: "This is all about keeping an 'arms length' from assets while still giving you the ability to make decisions on their deployment."

See Exhibit 19.

27. SML's "Offshore E-Commerce Solutions" webpage provides an opportunity to set up an internationally based business that can be operated "at arms length from your own home (high tax) jurisdiction or from anywhere in the world" for "tax avoidance purposes." See Exhibit 20. SML encourages creating an offshore corporate structure that has literally no business activity in your home territory, that includes elements such as a "non-controlled" offshore corporation (IBC) and offshore bank account, web-hosting to add another layer of protection and enhance the international location, and an offshore merchant account. See Exhibit 20. The webpage explains that by using the offshore merchant account, "the proceeds of all sales should bypass your own country's banking system." See Exhibit 20. The webpage offers the following suggestions as to how the untaxed offshore funds can be repatriated in the section entitled "Getting Your Profits Back Onshore Without Tax Liability:"

The clandestine way, of course, is to use a non-associated offshore card to draw funds from an ATM, but this is neither a long-term solution nor one



we would recommend, especially if you need to show some income to justify your lifestyle.

The easiest solution is to treat this e-commerce business as a secondary income stream and build up an offshore nest egg. However, if this were indeed your primary income, then you would need to repatriate funds at some stage. This 'drawn' income would be taxable in your home country (and you'd need to have proper paperwork to justify this income) - leaving undistributed profits to accumulate offshore.

Exhibit 20.

### **SML's Sovereign Gold Card**

28. SML provides offshore prepaid debit cards, also known as stored value cards, through Sovereign Gold Card ("SML's Sovereign Gold Card").

SML's Sovereign Gold Card maintains a website at

<http://www.sovereigngoldcard.com>. A copy of SML's Sovereign Gold Card

website's homepage as of June 13, 2016 is attached as Exhibit 21. According to its

website's homepage, Sovereign Gold Card has been offering prepaid card services,

through its affiliate SML, since 2005. On SML's Sovereign Gold Card website's

homepage, the following statements appear: "Sovereign Gold Card provides

offshore, international, anonymous prepaid debit cards (imprinted name options

also available). Sovereign Gold Card is a service of Sovereign Management &

Legal, a multi-jurisdictional offshore services provider." See Exhibit 21. On a

webpage entitled "Offshore Anonymous Prepaid Debit Card," linked to SML's

Sovereign Gold Card website's homepage and accessed from The Sovereign Gold

Card Advantage link, SML describes the advantages of the Sovereign Gold Card,

including that such cards are no name/anonymous, accepted worldwide, and private and confidential. See Exhibit 22. The Sovereign Gold Card website has a link to SML's website at [www.offshore-protection.com](http://www.offshore-protection.com) on every webpage accessed.

29. The Sovereign Gold Card "About Us" webpage states that SML offers Belize-issued and St. Vincent-issued MasterCard and Cyprus-issued Visa Electron debit cards as one of the many offshore services the firm provides. A copy of the SML Sovereign Gold Card's "About Us" webpage is attached as Exhibit 23. On the "Loading of Prepaid Cards" webpage, attached as Exhibit 24, SML explains that customers can load cards by international bank transfer (i.e., wire), by using worldwide money transfer companies (i.e., Western Union), or by a check drawn on a U.S. bank, made payable to SML, and sent by FedEx, DHL, or UPS to an address in Miami, Florida. SML provides a U.S. telephone and U.S. fax number. SML clients can also load a prepaid card by sending the U.S. check via postal mail to a U.S. post office box in Miami, Florida. See Exhibit 24. SML informs cardholders that they can make a transfer from any of the leading money transfer companies' offices in the world by taking cash to the office, or by submitting a wire online. Clients are further instructed to notify SML of the transfer via email, including sender name, sender location, receiver name, amount of transfer, and MTCN (money transfer control number) tracking number. SML states that the

funds will be credited to the client's card within five business days. See Exhibit 24.

30. Like SML's "Contact Us" webpage (See Exhibit 3), Sovereign Gold Card's "Contact Us" webpage lists a Hushmail address for Sovereign Gold Card ([sgcard@hushmail.com](mailto:sgcard@hushmail.com)) and encourages readers to setup their own Hushmail encrypted email accounts. See Exhibit 25. While SML offers its services to clients worldwide, its website targets U.S. taxpayers. SML's website is presented in English, and its "Contact Us" webpage includes a U.S. telephone number and a U.S. fax number. See Exhibit 3. SML's "Panama Private Interest Foundation" webpage, attached as Exhibit 17, offers ways to avoid the CFC reporting rules in countries including the USA. On its "Mail Receiving and Forwarding" webpage, mail forwarding services are offered in Miami, Florida in addition to Panama City, Panama. See Exhibit 18.

31. Similarly, SML's Sovereign Gold Card website also targets U.S. taxpayers. Sovereign Gold Card's website and webpages are also presented in English and lists a U.S. telephone number, a U.S. fax number, and U.S. addresses for courier and postal delivery. See Exhibits 21 - 25. SML's websites [www.offshore-protection.com](http://www.offshore-protection.com) and [www.sovereigngoldcard.com](http://www.sovereigngoldcard.com) contain numerous references to the use of courier services FedEx, DHL, and UPS to ship documents and payments between SML and its customers. See Exhibits 4 and 18; see also Exhibit 26 (SML's 2013 "General Ordering Procedures")



webpage); Exhibit 24 (SML's Sovereign Gold Card "Loading of Prepaid Cards" webpage); Exhibit 27 (SML's Sovereign Gold Card "Fees and Limits" webpage); and Exhibit 28 (SML's Sovereign Gold Card "Offshore Bank Accounts" webpage). SML's Sovereign Gold Card webpages also contain instructions on the use of Western Union to transfer funds and offer instructions on how to make wire transfers upon request.

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

#### **1) The Service's Voluntary Disclosure Programs**

32. The Voluntary Disclosure Practice is a longstanding practice of the Service's Criminal Investigation Division ("IRS CI"), and takes timely, accurate, and complete voluntary disclosures into account when the IRS CI is deciding whether to recommend criminal prosecution of a taxpayer to the U.S. Department of Justice. It enables noncompliant taxpayers to resolve their tax liabilities and minimize their chances of criminal prosecution. The Voluntary Disclosure Practice requires participating taxpayers to cooperate with the Service in the determination of their correct liability for tax and penalties, but does not specify any particular terms for resolution of tax and penalties.

33. On March 23, 2009, the Service announced a voluntary disclosure program designed to bring into compliance with U.S. tax laws taxpayers that used undisclosed foreign accounts and undisclosed foreign entities to avoid or evade

tax. Under this program, taxpayers making voluntary disclosures of offshore non-compliance that qualified for the IRS CI voluntary disclosure practice could also settle their civil liabilities under fixed terms. This program, known as the 2009 Offshore Voluntary Disclosure Program (“2009 OVDP”), ran from March 23, 2009 through October 15, 2009, and covered tax years 2003 through 2008. By entering and qualifying for the 2009 OVDP, taxpayers were required to file all original and amended returns and pay all taxes, interest, and predetermined penalties, including a 20% miscellaneous penalty.

34. After the 2009 OVDP closed, the Service opened a second offshore disclosure initiative known as the 2011 Offshore Voluntary Disclosure Initiative (“2011 OVDI”). The 2011 OVDI ran from February 8, 2011 through September 9, 2011, and covered tax years 2003 through 2010. The objective of the 2011 OVDI was the same as the 2009 OVDP; however, the penalty framework changed and the miscellaneous penalty rate increased from 20% to 25%.

35. The Service began an open-ended offshore voluntary disclosure program in January 2012 (“2012 OVDP”) on the heels of strong interest in the 2011 OVDI and 2009 OVDP. The 2012 OVDP has a higher penalty rate than the 2011 OVDI and is currently available to taxpayers.

**2) Taxpayer's Disclosure of SML in Offshore Voluntary Disclosure Program**

36. A search of the Service's voluntary disclosure program databases for SML and any entities related to SML yielded one taxpayer who acknowledged using SML's services to set up an undeclared scheme of accounts and structures. Taxpayer-1 is a United States taxpayer who, during 2006 through 2011, formed 7 offshore entities of which 3 were established in Panama. Of the 7 offshore entities, 5 were formed in 2011, and SML formed 2 of the entities in Panama. During this period, Taxpayer-1 had established 21 offshore accounts of which 11 accounts were established in Panama. Taxpayer-1 was the beneficial owner of, and sole signatory over, all of the offshore accounts disclosed in the voluntary disclosure. Taxpayer-1 failed to properly report offshore income and the existence of all of these offshore accounts and entities.

37. Taxpayer-1 stated during an interview that while searching the term "forming offshore companies" on the Internet, he came across SML's website which he found to be "very convincing." Taxpayer-1 contacted SML in 2006 using the telephone number and offshore-protection.com email address on SML's website, and subsequently met with a representative of SML in person in Panama to discuss offshore arrangements. SML established an anonymous (bearer share) Panama corporation ("Entity-1") for Taxpayer-1 within days after their meeting. Taxpayer-1 provided a copy of his U.S. passport to SML. Taxpayer-1 also went to



HSBC Bank (Panama), S.A. (“HSBC Panama”) to open an account in Entity-1’s name. Taxpayer-1 chose HSBC because this was the bank that SML worked with. Taxpayer-1 believes the HSBC Panama account statements were delivered to SML, which was the mailing address for Entity-1. Taxpayer-1 believes he used the HSBC Panama account to pay renewal and other fees due to SML, and may have wired the funds from the HSBC Panama account. SML used FedEx to send Taxpayer-1 formation documents, including a Sovereign Gold Card offshore prepaid debit card with Entity-1’s name on the card. Taxpayer-1’s name was left off the card in order to maintain privacy and anonymity. Taxpayer-1 also received another prepaid card from SML via FedEx or DHL.

38. In 2011, SML established a second Panamanian corporation (“Entity-2”) for Taxpayer-1 for the purpose of owning a Colombian company (“Entity-3”), thus adding an extra layer of protection. Taxpayer-1 received a Sovereign Gold Card offshore prepaid debit card in connection with Entity-2. The debit card was issued through Heritage International Bank & Trust in Belize, which was recommended by SML. Taxpayer-1 recalled receiving a wire instruction from support@SovereignGoldCard.com on how to load Entity-2’s prepaid debit card. SML directed Taxpayer-1 to wire funds to SML using multiple parties via a company in London and Barclays Bank with SML as the final beneficiary.

**The Service's Investigation and the John Doe Summons**

39. The Service is now investigating United States taxpayers who held, or had authority to use, a Sovereign Gold Card issued by, through, or at the direction of, SML.

40. Pursuant to Sections 7609(f) and (h) of the Internal Revenue Code (26 U.S.C. §§ 7609(f) and (h)), the Service was authorized on December 18, 2014 by the United States District Court for the Southern District of New York to serve "John Doe" summonses upon eight institutions in connection with Sovereign Management & Legal, Ltd. ("SML") captioned In the Matter of The Tax Liabilities of John Does at Case No. 1:14-mc-00417-P1 ("SML John Doe Summonses").

Attached as Exhibit 29 is a copy of the 2014 Order authorizing the Service to serve the eight prior SML John Doe summonses with respect to users of SML services (the "Order").

41. The Service on January 6, 2015 served the following eight entities with "John Doe" summonses consistent with the Order: Federal Express Corporation; FedEx Ground Package System, Inc.; DHL Express; United Parcel Service, Inc.; Western Union Financial Services, Inc.; Federal Reserve Bank of New York; Clearing House Payments Company LLC; and HSBC Bank USA, National Association ("HSBC USA").

42. During the Service's review of the data provided in response to the SML John Doe Summonses, I learned that Michael A. Behr was receiving electronic fund transfers from SML through HSBC Hong Kong's correspondent account in the United States at HSBC USA. I learned that Mr. Behr was identified as the beneficiary of \$115,359.82 in electronic fund transfers that originated from SML starting on December 3, 2010 through January 15, 2015.

43. I conducted Internet research of Mr. Behr and any possible connection he may have with SML. Mr. Behr states on his LinkedIn webpage, in the Summary section, that he works for Sovereign Gold Card, a "Panama based company," as an "Account Administrator/Customer Support (part time)," and cites to <http://www.sovereigngoldcard.com>. Mr. Behr's LinkedIn webpage reflects he has held this position with Sovereign Gold Card from September 2010 to the present. A copy of Mr. Behr's LinkedIn webpage is attached as Exhibit 30.

44. Mr. Behr states on this LinkedIn webpage, in the Summary section, that his Sovereign Gold Card duties and responsibilities include the following:

- Administer customer accounts, process orders and transfer funds
- Managed and maintained customer database
- Bookkeeper, keep track of account balances and purchases
- Resolved customer issues via email and Skype

Exhibit 30.

45. Under the Experience section of his LinkedIn webpage, Mr. Behr indicates he has been a Customer Care Executive with Sovereign Gold Card from



October 2010 to the present, and lists the following Sovereign Gold Card duties and responsibilities in addition to those listed in the Summary section:

- Data entry using excel spreadsheets extensively
- Administer customer accounts, acquire & process new customers
- Post payments and client billing

46. I also found Mr. Behr's resume posted on Indeed Resume at [www.indeed.com](http://www.indeed.com), which is a website that allows users to post their resumes that can then be searched by viewers. A copy of Mr. Behr's resume as posted on [www.indeed.com](http://www.indeed.com) is attached as Exhibit 31. Mr. Behr's resume reflects he has been an "Account Manager" for Sovereign Gold Card from September 2010 to the present in Bozeman, Montana. On his resume, Mr. Behr lists the following Sovereign Gold Card duties and responsibilities:

- Data entry using excel spreadsheets extensively
- Administer customer accounts, process orders and transfer funds
- Managed and maintained customer database
- Bookkeeper, keep track of account balances and purchases
- Post payments and client billing

Exhibit 31.

47. I learned through Internet research and the Service's records that Mr. Behr resides in Bozeman, Montana.

48. Based on his Sovereign Gold Card duties and responsibilities, as discussed in paragraphs 43 through 46, above, Mr. Behr likely has information that can assist the Service in identifying U.S. taxpayers who used SML's

Sovereign Gold Card services to conceal assets and income from the Service. Because he acquires and processes new customers, administers customer accounts, processes orders and transfers funds, manages and maintains customer databases, keeps track of account balances and purchases, resolves customer issues, posts payments, is involved with client billing, and uses Excel spreadsheets for data entry, Mr. Behr has access to the very records and information that will identify SML's Sovereign Gold Card users. Mr. Behr should have access to SML's Sovereign Gold Card customer identification information since he is involved in acquiring and processing new customers. Customer identifying information such as U.S. addresses and U.S. telephone numbers entered into Excel spreadsheets can be searched to identify SML's Sovereign Gold Card customers that are U.S. taxpayers. Mr. Behr should have information that will reveal SML's Sovereign Gold Card customer account balances and where customer accounts are located worldwide given that he keeps track of account balances and assists with funds transfers. Mr. Behr should have access to other transactional information that will identify SML's Sovereign Gold Card customers since he processes orders, keeps track of purchases, posts payments, and is involved with client billing. Client billing information may reveal offshore entities such as trusts, foundations, and corporations beneficially owned by SML's Sovereign Gold Card customers.

According to the interview of Taxpayer-1, as summarized in paragraphs 36 through 38, above, Taxpayer-1 received at least two Sovereign Gold Card offshore prepaid debit cards for his offshore entities. At least one of the prepaid debit cards had the offshore entity's name on the card. Sovereign Gold Card account application information may reveal offshore prepaid debit cards in the names of undisclosed offshore entities beneficially owned by SML's Sovereign Gold Card customers and used to conceal assets and income from the Service.

49. Based on information received by the Service, the persons in the "John Doe" class may have failed to report the existence of foreign financial accounts under their control, failed to report income, evaded income taxes, or otherwise violated the internal revenue laws of the United States.

50. As described in greater detail below, (1) the "John Doe" summons to Michael A. Behr relates to the investigation of an ascertainable group or class of persons; (2) there is a reasonable basis for believing that this group or class of persons has failed or may have failed to comply with provisions of the internal revenue laws; and (3) the information and documents sought to be obtained from the examination of the records or testimony (and the identity of the persons with respect to whose tax liabilities the summonses have been issued) are not readily available from sources other than through the John Doe summons discussed herein.



**I. THE SUMMONS DESCRIBES A PARTICULAR PERSON OR ASCERTAINABLE CLASS OF PERSONS.**

51. The proposed “John Doe” summons seeks information regarding United States taxpayers who, at any time during the years ended December 31, 2005, through December 31, 2016, held, or had authority to use, a Sovereign Gold Card issued by, through, or at the direction of, SML.

52. This class of persons is ascertainable in that the persons in the class are particularized from the general public by their characteristics of being United States taxpayers who held, or had authority to use, an SML Sovereign Gold Card.

**II. MEMBERS OF THE “JOHN DOE” CLASS MAY HAVE FAILED TO COMPLY WITH THE INTERNAL REVENUE LAWS.**

**A. Internal Revenue Laws Require United States Taxpayers to Report Income Earned Worldwide, to Disclose All Foreign Financial Accounts, and to File Reports of Certain Foreign Financial Accounts.**

53. United States taxpayers with gross income exceeding the filing requirements must file annual income tax returns reporting to the Service their income from all sources worldwide. Taxpayers who fail to report all income on their income tax returns – including income earned in accounts held overseas – have failed to comply with the internal revenue laws.

54. United States taxpayers who have a financial interest in, or signature authority over, any foreign financial account must disclose the existence of that account on their federal income tax returns. For individuals, this is done by

checking the “Yes” box in response to a question at the bottom of Schedule B, Interest and Ordinary Dividends, which is attached to the U.S. Individual Income Tax Return, Form 1040 or Form 1040A.

55. United States taxpayers who have a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a calendar year are required to file with the Department of the Treasury, for that calendar year, an FBAR on FinCEN Form 114. For each of the years in question, except for year 2016, the FBAR was due by June 30 of the next calendar year. Beginning with calendar year 2016, the FBAR is due by April 15 of the next calendar year. It is the Service’s experience that taxpayers who have failed to file FBARs with respect to foreign financial accounts typically also have failed to check the box on Schedule B of the U.S. Individual Income Tax Return, Form 1040 or Form 1040A, disclosing the existence of foreign financial accounts, and have failed to report interest or other income earned with respect to those foreign accounts.

56. A United States taxpayer who receives a distribution from a foreign trust, or is the grantor of, or transferor to, a foreign trust, or who receives certain large gifts or bequests from certain foreign persons, may be required to file Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts.

57. A United States taxpayer who is treated as an owner of any portion of a foreign trust under the grantor trust rules is responsible for ensuring that the foreign trust files Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner, and that the required annual statements are furnished to its U.S. owners and U.S. beneficiaries.

58. A United States taxpayer may be required to file Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, if certain conditions are met relating to their ownership interest in a foreign corporation.

**B. The Internal Revenue Service has Reason to Believe that Members of the “John Doe” Class May Have Failed to Comply with One or More Requirements of the Internal Revenue Laws.**

59. The “John Doe” class includes United States taxpayers who held, or had authority to use, an SML Sovereign Gold Card. Some of those Sovereign Gold Cards are expected to be held in the names of offshore shell entities. Taxpayer-1 had a Sovereign Gold Card offshore prepaid debit card that was held in the name of an offshore shell entity (Entity-1). See paragraph 37, above. Based on my experience with offshore issues, taxpayers who hold undisclosed foreign accounts, entities, or structures often do so in order to conceal their existence and income from the Service. SML offers its clients a number of structures and services that can be used for tax evasion purposes. Many of the entity formation



packages that SML offers include anonymous, offshore prepaid debit card options, such as the Sovereign Gold Card. Because it does not know the identities of those in the “John Doe” class, the Service cannot yet audit these United States taxpayers’ income tax returns to determine whether they reported their income held in offshore accounts and reported the existence of their offshore entities.

60. The services provided to its U.S. customers by SML, as described by Taxpayer-1, as described in the Willems indictment (Exhibit 2), and as described at length on SML’s own website and webpages, are the kinds of activities that, in the experience of the Service, are the hallmarks of offshore tax evasion, including structures of offshore trusts, foundations and anonymous corporations managed by nominee officers and secretly owned through bearer shares, the concealment of beneficial ownership in foreign accounts and assets in jurisdictions with strong financial secrecy laws and practices, the use of offshore merchant accounts to escape taxation of business credit card receipts, and the use of anonymous offshore prepaid debit cards to secretly repatriate untaxed offshore funds.

61. It is the Service’s experience that there is a direct correlation between unreported income and the lack of visibility of that income to the Service. That is, when the third-party payer of income to a taxpayer is not required, or fails to report that income to the Service, the taxpayer-recipient of that income is far less likely to report that income on his or her tax returns. This experience supports the Service’s

belief that United States taxpayers with undisclosed offshore accounts, entities, or structures and who use Sovereign Gold Cards to access their offshore accounts may not be complying with the internal revenue laws requiring them to report income related to those accounts, as well as reporting the existence of their offshore entities. Because it does not know the identities of those in the “John Doe” class, the Service cannot yet audit the returns filed by those taxpayers, to determine whether they reported that income.

62. The information obtained by the Service and discussed in this Declaration suggests that many of the still-unknown United States taxpayers using SML Sovereign Gold Cards have not reported their offshore accounts, entities, or structures, nor have they reported income earned on those accounts. Instead, they have likely relied on the lack of third party reporting to support their decision not to report the existence of those entities and accounts, with the expectation that the Service would not discover the accounts, omitted income, or the existence of the entities.

63. Based on the above information, United States taxpayers in the “John Doe” class may be failing to comply with the Internal Revenue Code provisions governing United States taxpayers’ obligations to report and pay tax on world-wide income, to disclose all interests in foreign financial accounts, to file annual reports

of foreign financial accounts with assets exceeding \$10,000, and to file annual reports reporting their offshore entities.

**III. THE REQUESTED INFORMATION IS NOT READILY AVAILABLE FROM OTHER SOURCES.**

64. The summons requests information pertaining to the issuance and use of SML's Sovereign Gold Cards. Michael A. Behr is the only known source of information pertaining to SML's Sovereign Gold Card business in the United States.

65. Therefore, to my knowledge, and based on my experience, the only repository of the information sought by the proposed summons that is readily available to the Service is Michael A. Behr.

66. In light of the above, the records sought by the "John Doe" summons are not otherwise reasonably and timely available to the Service.

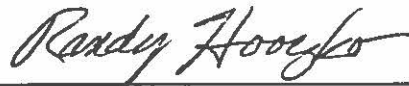
**IV. CONCLUSION**

67. Based upon the foregoing, I believe that the information sought in the "John Doe" summons to be issued to Michael A. Behr will allow the Service to identify United States taxpayers who may have failed to comply with their obligation to report and pay U.S. tax on income earned with respect to financial accounts and entities accessed through SML Sovereign Gold Cards during the years ended December 31, 2005, through December 31, 2016.



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

Executed this 5<sup>th</sup> day of January, 2017.



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RANDY HOOCZKO  
Internal Revenue Agent  
Internal Revenue Service