

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG LINDBERG,

Defendant.

Case No.

**COMPLAINT TO REDUCE CIVIL PENALTY ASSESSMENTS TO JUDGMENT**

Plaintiff, the United States of America, alleges the following:

**INTRODUCTION**

1. This is a timely civil action brought by the United States with the authorization of the Secretary of Treasury pursuant to 31 U.S.C. § 3711(g)(4)(C) and at the direction of the United States Attorney General.

2. The United States brings this action to collect from Defendant Greg Lindberg the outstanding civil penalty assessments under 31 U.S.C. § 5321(a)(5)), commonly known as FBAR penalties.

3. The FBAR penalties were assessed against the Defendant for his failure to timely report his financial interest in and/or signatory authority over foreign bank accounts for the calendar years 2012 through 2015, as required by 31 U.S.C. § 5314 and its implementing regulations, as well as all associated penalties and interest, having a

total balance due to the United States of America of \$45,323,46 as of September 13, 2022.

4. The United States is entitled to proceed under the Federal Debt Collection Practices Act (28 U.S.C. §§ 3001-3308) to collect any judgment it obtains in this case, including the use of all appropriate pre-judgment remedies, post-judgment remedies, and the additional surcharge as authorized by 28 U.S.C. § 3011.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355.

6. Venue is proper in the Middle District of North Carolina under 28 U.S.C. §§ 1391 and 1395 because Defendant lived in Durham during the FBAR examination and a substantial portion of the events giving rise to the claim occurred in this district.

### **DEFENDANT**

7. Defendant Greg Lindberg is a United States citizen who conducted business and resided in North Carolina during the years at issue.

### **REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS (FBAR)**

8. 31 U.S.C. § 5314 authorizes the Secretary of the Treasury to require United States persons to report certain transactions with foreign financial agencies. Under the statute's implementing regulations, "[e]ach United States person having a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country shall report such relationship" to the Internal Revenue Service ("IRS") for each year in which such relationship exists. 31 C.F.R. § 1010.350(a).

9. To fulfill this requirement for 2012, a person was required to file Form TD F 90-22.1, “Report of Foreign Bank and Financial Accounts,” and to fulfill the reporting requirement for 2013 through 2015, a person was required to file FinCEN Form 114, “Report of Foreign Bank and Financial Accounts.” Each form is commonly known as an “FBAR.” For the years at issue, an FBAR was due by June 30 “of each calendar year with respect to foreign financial accounts exceeding \$10,000 maintained during the previous calendar year.” 31 C.F.R. § 1010.306(c).

10. 31 U.S.C. § 5321(a)(5) provides for the imposition of civil penalties for failure to comply with the reporting requirements of 31 U.S.C. § 5314. The penalty amount for non-willful violations of 31 U.S.C. § 5314 shall not exceed \$10,000 per violation. 31 U.S.C. § 5321(a)(5)(B)(i).

### **FOREIGN BANK ACCOUNTS**

11. Defendant was born in the United States in 1970 and has been a citizen of the United States since then.

12. Defendant owns Academy Association, Inc. (“Academy”), an S corporation.

13. Academy timely filed FBARs for 2012 through 2015 because of its interest in foreign bank accounts.

14. Defendant personally had signing authority over Academy’s foreign bank accounts.

15. Defendant did not timely file FBARs for 2012 through 2015 showing his signing authority over Academy’s foreign bank accounts.

16. During 2012 through 2015, Defendant had signing authority over foreign bank accounts with HDFC Bank Ltd. (India), HSBC Bermuda (Bermuda), and Bank of Valetta (Malta).

17. Defendant filed IRS Forms 1040 for 2012 through 2015 in which he checked no on Schedule B in response to the question regarding whether he had a financial interest or signing authority over foreign financial accounts.

18. In November of 2017, the IRS informed Defendant that it was examining his 2014 income tax return. Defendant then filed delinquent FBARs for 2012 through 2015.

19. Defendant's delinquent FBARs reported an interest and/or signing authority over the following accounts with the following banks:

<u>Year</u>	<u>Foreign Bank</u>	<u>Account</u>	<u>Maximum Account Balance in Calendar Year</u>
2012	HDFC Bank Ltd.	- 0781	\$344,549
2013	HSBC Bermuda	-5-501	\$3,766,685
2014	HSBC Bermuda	-5-501	\$17,697,810
2015	Bank of Valetta	-4958	\$4,435,167

## **CLAIM FOR RELIEF: JUDGMENT FOR CIVIL PENALTIES**

**(31 U.S.C. § 5321(a)(5))**

### ***Liability for Civil Penalty***

20. During the calendar years 2012, 2013, 2014, and 2015, Defendant was a United States person within the meaning of 31 C.F.R. § 1010.350(b).

21. During the calendar years 2012 through 2015, Defendant had a financial interest and/or signing authority over bank accounts with HDFC Bank Ltd., HSBC Bermuda, and the Bank of Valetta (“Foreign Bank Accounts”), as described in ¶¶ 16 and 19.

22. The Foreign Bank Accounts were bank accounts in a foreign country.

23. During each year from 2012 through 2015, the balance of the Foreign Bank Accounts in which Defendant had a reportable interest exceeded \$10,000.

24. Defendant failed to timely file an FBAR for 2012 through 2015 as required by 31 U.S.C. § 5314 and 31 C.F.R. §§ 1010.350 & 1010.306(c).

### ***Assessment and Collection of Civil Penalty***

25. On September 25, 2018, Defendant consented to extend the statute of limitations for assessing the 2012 FBAR penalty to June 30, 2020.

26. On January 6, 2020, Defendant consented to extend the statute of limitations for assessing the 2012 and 2013 FBAR penalties to June 30, 2021.

27. The IRS sent Defendant Letter 3709 on August 20, 2020 proposing penalties against him for \$10,000 per year for 2012 through 2015.

28. On September 30, 2020, Defendant signed Form 13449, Agreement to Assessment and Collection of Penalties Under 31 U.S.C. § 5321(a)(5) and (a)(6), agreeing to the assessed penalties.

29. On October 26, 2020, a delegate of the Secretary of Treasury timely assessed the following civil penalties against Defendant for failure to timely file FBARs disclosing the Foreign Bank Accounts:

<u>Year</u>	<u>Bank</u>	<u>Account</u>	<u>Penalty Amount</u>
2012	HDFC Bank Ltd.	- 0781	\$10,000
2013	HSBC Bermuda	-5-501	\$10,000
2014	HSBC Bermuda	-5-501	\$10,000
2015	Bank of Valetta	-4958	\$10,000

30. On November 4, 2020, the IRS sent Defendant Letter 3708 demanding payment of the assessments described in ¶ 29. The IRS has received no payments from Defendant for the assessed FBAR penalties.

31. In addition to the FBAR Penalties, Defendant owes late-payment penalties pursuant to 31 U.S.C. § 3717(e)(2) and interest pursuant to 31 U.S.C. § 3717(a). As of September 13, 2022, an additional \$1,486.03 in interest and \$3,837.43 in penalties have accrued.

32. As of September 13, 2022, the unpaid balance owed to the United States by Defendant for the FBAR Penalties, the late payment penalties, applicable fees and interest, less any payments, was \$45,323.46.

33. The United States is entitled to a judgment against Defendant in the amount of at least \$45,323.43 as of September 13, 2022, plus statutory accruals as provided by law from that date until fully paid.

### **REQUEST FOR RELIEF**

WHEREFORE, the United States respectfully requests that the Court enter judgment in its favor and against Greg Lindberg as follows:

- A. Enter judgment against Greg Lindberg for the FBAR assessments against him for 2012, 2013, 2014, and 2015 in the amount of \$45,323.43 as of September 13, 2022, plus statutory accruals as provided by law from that date until fully paid; and
- B. Award the United States its costs and such other relief as is just and proper.

Dated: October 25, 2022

DAVID A. HUBBERT  
Deputy Assistant Attorney General

/s/ Alexander E. Stevko  
ALEXANDER E. STEVKO  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-06863  
Tel: 202-616-2380  
Fax: 202-307-0054  
Email: Alexander.Stevko@usdoj.gov  
*Counsel for United States of America*