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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	22 Civ. 10654
	:	
v.	:	<b><u>COMPLAINT</u></b>
	:	
PILAR MOLYNEUX,	:	
	:	
Defendant.	:	
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Plaintiff the United States of America (the “United States”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, brings this action to collect the outstanding unpaid civil penalties assessed against defendant Pilar Molyneux (“Molyneux”) for her willful failure to report her financial interest in foreign bank accounts in calendar years 2014 and 2015, as required by 31 U.S.C. § 5314 and its implementing regulations, and alleges upon information and belief as follows:

**JURISDICTION AND VENUE**

1. The United States brings this suit under 31 U.S.C. §§ 3711(g)(4)(C) and 5321(b)(2), at the direction of the Attorney General of the United States and at the request of, and with the authorization of, the Commissioner of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury of the United States.

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355 because it arises under a federal statute and the United States is the plaintiff.

3. Venue is proper in this district under 28 U.S.C. § 1391(c)(3) because Molyneux, a United States citizen, currently resides in France and may be sued in any judicial district. Venue may also be proper in this district under 28 U.S.C. § 1395(a) because the acts or omissions giving rise to Molyneux's liabilities occurred in this district.

### **THE PARTIES**

4. Plaintiff is the United States of America.

5. Defendant Pilar Molyneux is a citizen of the United States and Chile, and on information and belief, currently resides in Paris, France, and conducts business at J.P. Molyneux Studio, with an office located at 4 Rue Chapon, 75003 Paris, France.

### **REGULATORY BACKGROUND**

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

7. To fulfill this requirement, a United States person is required file a "Report of Foreign Bank and Financial Accounts . . . or any successor form," commonly known as an "FBAR," 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. §§ 1010.350(a), 1010.306(c).

8. Civil penalties may be assessed on taxpayers for willful failure to comply with the reporting requirements of § 5314. 31 U.S.C. § 5321(a)(5). For calendar year 2014, the maximum penalty for willful violations involving the failure to report the existence of a foreign financial account, was the greater of \$100,000 or 50% of the balance in the account at the time of the violation. *Id.* § 5321(a)(5)(C)(i). For calendar year 2015, the maximum penalty for willful violations was the greater of \$134,806 or 50% of the balance in the account at the time of the violation. *Id.*; 31 C.F.R. § 1010.821(b).

9. Penalties under 31 U.S.C. § 5321(a)(5)(C) are subject to interest and further penalties pursuant to 31 U.S.C. § 3717.

### **FACTUAL BACKGROUND**

10. Molyneux was a U.S. person during calendar years 2014 and 2015 and resided within the United States or was otherwise subject to the jurisdiction of the United States.

11. On information and belief, Molyneux maintained a residence in Manhattan at all times relevant to the complaint.

12. During at least calendar years 2014 and 2015, Molyneux was familiar with the FBAR filing requirements because she had previously timely filed an FBAR for calendar year 2013. In addition, in 2014, Molyneux filed delinquent FBARs for calendar years 2005 through 2012. Also in 2014, JP Molyneux Studio, an entity in which Molyneux held an ownership interest, timely filed an FBAR for calendar year 2013.

#### **A. Banque Neuflyze Personal Bank Accounts**

13. From at least January 2014 through at least December 2015, Molyneux had signature authority over two accounts at Banque Neuflyze in France, bearing account numbers

XXXXXXXX0001 and XXXXXXXX0002 (hereinafter, the “Banque Neuflyze Personal Accounts”).<sup>1</sup>

14. The mailing address of the financial institution in which the Banque Neuflyze Personal Accounts were held was 3 Avenue Hoche, Paris, Ile-de-France, 75008, France.

15. The Banque Neuflyze Personal Accounts were bank, securities, or other financial accounts in a foreign country.

**B. Molyneux’s FBAR Reporting Obligations for Calendar Year 2014**

16. During calendar year 2014, the Banque Neuflyze Personal Accounts had a maximum aggregate balance of \$29,310.

17. The aggregate balance of the Banque Neuflyze Personal Accounts exceeded \$10,000 during the 2014 calendar year.

18. Molyneux failed to file an FBAR with regard to the 2014 calendar year on or before June 30, 2015.

19. By failing to file an FBAR for calendar year 2014, Molyneux willfully violated the reporting requirements of Section 5314.

**C. Molyneux’s FBAR Reporting Obligations for Calendar Year 2015**

20. During calendar year 2015, the Banque Neuflyze Personal Accounts had a maximum aggregate balance of \$64,736.

21. The aggregate balance of the Banque Neuflyze Personal Accounts exceeded \$10,000 during the 2014 calendar year.

22. Molyneux failed to file an FBAR with regard to the 2015 calendar year on or before June 30, 2016.

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 5.2(a)(4), all but the last four digits of the financial account numbers herein are redacted.

23. By failing to file an FBAR for calendar year 2015, Molyneux willfully violated the reporting requirements of Section 5314.

#### **D. Assessment of Civil Penalties**

24. On March 4, 2020, a delegate of the Secretary of the Treasury sent Molyneux a notice to her business address in the United States, 750 Lexington Avenue, 5th Floor, New York, New York 10022. The notice proposed civil penalties totaling \$400,000 (the “FBAR Penalties”) against Molyneux for her willful failures to comply with the FBAR filing requirements for calendar years 2014 and 2015.

25. Specifically, the notice proposed penalties in the amount of \$200,000 (\$100,000 per account) for Molyneux’s willful failure to file an FBAR for calendar year 2014, and \$200,000 for Molyneux’s willful failure to file an FBAR for calendar year 2015.

26. On March 4, 2020, the IRS also sent Molyneux an IRS Form 13449, entitled “Agreement to Assessment and Collection of Penalties Under 31 USC 5321(a)(5) and 5321(a)(6)” to 750 Lexington Avenue, 5th Floor, New York, New York 10022. Above the signature line, the Form 13449 stated: “I consent to the immediate assessment and collection of the penalty amount specified above,” and listed \$400,000 as the total proposed penalty.

27. On April 15, 2020, Molyneux acknowledged her liability for the assessed penalties by signing the Form 13449 and returning it to the IRS via facsimile on April 17, 2020. The form listed her address as 750 Lexington Avenue, 5th Floor, New York, New York 10022.

28. On December 21, 2020, in accordance with 31 U.S.C. § 5321(a)(5)(C)(i) and consistent with the Form 13449 executed by Molyneux, a delegate of the Secretary of the Treasury assessed FBAR Penalties totaling \$400,000 against Molyneux for her willful failures to comply with the FBAR filing requirements for calendar years 2014 and 2015.

29. On December 21, 2020, a delegate of the Secretary of the Treasury sent Molyneux a notice of the assessment of the FBAR Penalties and a demand for payment to 750 Lexington Avenue, 5th Floor, New York, New York 10022.

30. On January 13, 2021, the notice of assessment was returned to the IRS by the United States Postal Service as undeliverable.

31. On February 17, 2021, the IRS mailed a copy of the notice of assessment to Molyneux at JP Molyneux Studio's address in Paris. To date, no portion of the FBAR assessments against Molyneux for calendar years 2014 or 2015 have been paid.

32. Since the date on which the IRS assessed the FBAR Penalties, interest and additional penalties have accrued, and continue to accrue, including interest and a late penalty charge. 31 U.S.C. § 3717(a)-(c), (e)-(f); 31 C.F.R. § 901.9(b)(3), (d).

**CLAIM FOR RELIEF**  
**Judgment for Civil Penalties, 31 U.S.C. § 5321(a)(5)**

33. The allegations in paragraphs 1 through 32 are repeated and realleged as though set forth fully therein.

34. By this action, the United States seeks to collect the FBAR Penalties assessed against Molyneux by the IRS on December 21, 2020, plus interest and additional penalties which continue to accrue as provided by law.

35. Molyneux owes the United States \$400,000, consisting of the \$200,000 FBAR Penalty assessed for calendar year 2014 and the \$200,000 FBAR Penalty assessed for calendar year 2015, plus associated penalties and interest pursuant to 31 U.S.C. § 3717, which continue to accrue.

36. The United States may bring suit to recover the FBAR Penalties assessed under 31 U.S.C. § 5321(a) at any time before the end of the two-year period beginning on the date the penalty was assessed. 31 U.S.C. § 5321(b)(2)(A).

37. This civil action to collect the FBAR Penalties, and the associated penalties and interest, is timely under 31 U.S.C. § 5321(b)(2), because it is filed within two years of December 21, 2020, the date when the FBAR Penalties were assessed.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiff the United States of America respectfully requests that the Court enter judgment:

(a) awarding the United States the amount of Molyneux's assessed FBAR Penalties totaling \$400,000.00, plus any interest and/or additional penalties as allowed by law from December 21, 2020, to the date of payment; and

(b) granting the United States its costs incurred in connection with this action, along with such further relief as the Court may deem just and proper.

Dated: New York, New York  
December 16, 2022

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