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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

United States of America,

Plaintiff,

v.

Laura Kim,

Defendant.

Case No. 2:21-cv-06746

Complaint to reduce FBAR penalties to judgment

The United States of America, by its undersigned counsel, brings this civil action to reduce to judgment the unpaid FBAR penalty assessments, interest thereon, and late payment penalties as provided by law. For its complaint against the above-named defendant, the United States of America complains and alleges as follows.

I. General Allegations

Jurisdiction and Venue

1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, and 1355(a) because this action arises under the laws of the United States and because the United States is the plaintiff.

2. This action is commenced at the direction of the Attorney General of the United States and at the request of, and with the authorization of, the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States, pursuant to 31 U.S.C. § 3711(g)(4)(C), and in accordance with 31 U.S.C. § 5321(b)(2).

3. Venue for this action is within the Central District of California under 28 U.S.C. §§ 1391(b)(1) and (b)(2) because Defendant resides in this district and because a substantial part of the events or omissions giving rise to the claim occurred within this judicial district.

Statutory and regulatory provisions for the FBAR penalty

4. Citizens of the United States are required to report to the IRS certain activity with foreign financial agencies for each year in which the activity occurs. 31 U.S.C. § 5314(a); 31 C.F.R. § 1010.350(a).

5. One such activity is "having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country." 31 C.F.R. § 1010.350(a).

6. The form that needs to be completed for this annual reporting requirement is the Report of Foreign Bank and Financial Accounts (FBAR).

7. For calendar years before 2017, the FBAR report for foreign financial accounts exceeding $10,000 maintained during a calendar year was due by June 30 of the following calendar year. 31 C.F.R. § 1010.306(c).

8. Civil penalties can be assessed against an individual who, whether willfully or non-willfully, fails to comply with these reporting requirements. 31 U.S.C. § 5321(a)(5)(A).

9. For willful violations, the penalty assessed is the greater of $100,000 or 50% of the balance in the foreign financial account at the time of the violation. 31 U.S.C. § 5321(a)(5)(C)(i).

II. Claim for Relief: Reduce Assessments to Judgment

10. The allegations made in the preceding paragraphs in this complaint are incorporated herein by reference.

11. Defendant was born in 1944 and immigrated to the United States in 1968.

12. Defendant is a United States citizen.

13. Defendant speaks fluent English.

14. Defendant has a Ph.D. in ecological engineering.

15. Defendant operates multiple businesses in the United States and the Republic of Korea (South Korea).

16. Defendant is the 100% owner of Laura's Distribution Company, LK Waters, and Marina Enterprises, which are all incorporated in South Korea.

17. Defendant is the 90% owner of Laura's French Baking Company, which is located in Los Angeles, California.

FBAR Filings

18. For each of the years 2009 through 2012, Defendant was required to file an FBAR by June 30 of the following year and report her foreign financial accounts exceeding $10,000.

19. In 2009, Defendant had a financial interest in, or signature or other authority over, at least 17 foreign bank accounts.

20. In 2010, Defendant had a financial interest in, or signature or other authority over, at least 29 foreign bank accounts.

21. In 2011, Defendant had a financial interest in, or signature or other authority over, at least 26 foreign bank accounts.

22. In 2012, Defendant had a financial interest in, or signature or other authority over, at least 23 foreign bank accounts.

23. In 2009, Defendant had combined monthly foreign bank account balances that averaged over $5,000,000.

24. In 2010, Defendant had combined monthly foreign bank account balances that averaged over $8,000,000.

25. In 2011, Defendant had combined monthly foreign bank account balances that averaged over $7,000,000.

26. In 2012, Defendant had combined monthly foreign bank account balances that averaged over $4,000,000.

27. Attached as **Exhibit A** is a summary of 56 foreign bank accounts from January 2009 through December 2012 that Defendant had a financial interest in, or signature or other authority over.

28. For each of the years 2009 through 2012, Defendant filed an FBAR.

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29. The following is a summary of the foreign bank accounts reported by Defendant on her 2009 FBAR filed in 2010:

Foreign Bank Listed by Defendant on FBAR	Last 4 of Account Number	Maximum Value Reported
Standard Chartered First Bank Korea Limited	2994	$ 79,953
Standard Chartered First Bank Korea Limited	3627	$ 7,180
Standard Chartered First Bank Korea Limited	0218	$ 85,872
Woori Bank	6411	$ 319,716
Total Reported on FBAR for 2009		$ 492,721

30. The following is a summary of the foreign bank accounts reported by Defendant on her 2010 FBAR filed in 2011:

Foreign Bank Listed by Defendant on FBAR	Last 4 of Account Number	Maximum Value Reported
Laura Hija J Kim (Savings)	N/A	$ 90,417
Woori Bank	1003	$ 211,471
Woori Bank	9362	$ 305,885
Total Reported on FBAR for 2010		$ 607,773

31. The following is a summary of the foreign bank accounts reported by Defendant on her 2011 FBAR filed in 2012:

Foreign Bank Listed by Defendant on FBAR	Last 4 of Account Number	Maximum Value Reported
Woori Bank	5527	$ 88,811
Standard Chartered First Bank Korea Limited	1528	$ 175,000
Total Reported on FBAR for 2011		$ 263,811

32. The following is a summary of the foreign bank accounts reported by Defendant on her 2012 FBAR filed in 2013:

Foreign Bank Listed by Defendant on FBAR	Last 4 of Account Number	Maximum Value Reported
Woori Bank	61AB	$ 435,389
Standard Chartered First Bank Korea Limited	7610	$ 59,627
Total Reported on FBAR for 2012		$ 495,016

Income Tax Returns

33. For tax years 2009 through 2012, Defendant's tax returns were prepared by Michael Khim, CPA.

34. Michael Khim found out that Defendant had foreign bank accounts in the fourth quarter of 2012.

35. For tax years 2009 through 2011, Defendant reported that she had no foreign bank accounts on Schedule B of Form 1040.

Schedule B

36. Defendant's tax returns for tax years 2009 through 2011 included Schedule B – Interest and Ordinary Dividends.

37. For tax years 2009 through 2011, Part III of Schedule B contained the following text:

> You must complete this part if you (a) had over $1,500 of taxable interest or ordinary dividends; or (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

38. Defendant had foreign bank accounts for tax years 2009 through 2011, so she was required to complete Part III of Schedule B, including question 7(a) for each of those years.

39. For tax year 2009, on Part III of Schedule B, question 7(a) asked:

> At any time during 2009, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions on back for exceptions and filing requirements for Form TD F 90-22.1.

40. For tax year 2009, Defendant's tax returns checked the "No" box for question 7(a).

41. For tax year 2010, on Part III of Schedule B, question 7(a) asked:

> At any time during 2010, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions on back for exceptions and filing requirements for Form TD F 90-22.1.

42. For tax year 2010, Defendant's tax returns checked the "No" box for question 7(a).

43. For tax year 2011, on Part III of Schedule B, the first part of question 7(a) asked:

> At any time during 2011, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions.

44. For tax year 2011, on Part III of Schedule B, the second part of question 7(a) stated:

> If "Yes," are you required to file Form TD F 90-22.1 to report that financial interest or signature authority? See Form TD F 90-22.1 and its instructions for filing requirements and exceptions to those requirements.

45. For tax year 2011, Defendant's tax returns checked the "No" box for both parts of question 7(a).

Understatement of tax liabilities

46. For tax years 2009 through 2012, Defendant's foreign bank accounts earned interest income.

47. For tax years 2009 through 2012, Defendant understated her interest income from her foreign bank accounts on her U.S. Individual Income Tax Returns.

48. For tax years 2009 through 2012, Defendant understated her income tax liabilities on her U.S. Individual Income Tax Returns.

49. For tax years 2009 through 2012, Defendant reviewed her U.S. Individual Income Tax Returns before they were filed with the IRS.

50. For tax years 2009 through 2012, Defendant signed her U.S. Individual Income Tax Returns under penalties of perjury affirming that she had examined her tax returns and accompanying schedules and to the best of her knowledge and belief, they were true, correct, and complete.

51. For tax years 2009 through 2012, Defendant authorized the filing of her U.S. Individual Income Tax Returns before they were filed with the IRS.

Defendant willfully failed to file FBARs for tax years 2009 through 2012

52. For the years 2009 through 2012, Defendant knew that she was required to file an FBAR with the IRS by June 30 of the following year and report each foreign bank account that she owned or had signature authority over with a balance of over $10,000.

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Calendar Year 2009

53. For the year 2009, Defendant filed an FBAR but willfully failed to report all the foreign bank accounts for which she had a financial interest or signature authority.

54. The following is a summary for 2009 of foreign bank accounts that Defendant had a financial interest in, or signature authority over, with a maximum value over $90,000 during the year, the amount she did report, the value of the account on the date the FBAR was due to be filed if it was over $200,000, and the maximum willful FBAR penalty that could have been assessed on those accounts:

Foreign Bank	Last 4 of Account Number	Maximum Value in 2009	Maximum Value Reported by Defendant on FBAR	Value on June 30, 2010 (if over $200,000)	Maximum Willful FBAR Penalty
Woori Bank	0361	$ 1,217,582	$ -		$ 100,000
Woori Bank	0365	$ 264,209	$ -		$ 100,000
Woori Bank	0368	$ 266,384	$ -		$ 100,000
Woori Bank	2033	$ 1,430,707	$ -		$ 100,000
Woori Bank	2308	$ 536,492	$ -		$ 100,000
Woori Bank	3441	$ 1,677,843	$ -		$ 100,000
Woori Bank	3626	$ 1,594,578	$ -		$ 100,000
Woori Bank	4317	$ 472,484	$ -		$ 100,000
Woori Bank	5806	$ 175,928	$ -		$ 100,000
Woori Bank	6005	$ 1,674,537	$ -		$ 100,000
Woori Bank	6411	$ 528,352	$ 319,716		$ 100,000
Woori Bank	6658	$ 2,034,712	$ -		$ 100,000
Woori Bank	6817	$ 438,357	$ -		$ 100,000
			Total Maximum Penalty		$ 1,300,000

55. On August 20, 2019, the IRS assessed a willful FBAR penalty against Defendant for the year 2009 in the amount of $1,014,109.85.

Calendar Year 2010

56. For the year 2010, Defendant filed an FBAR but willfully failed to report all the foreign bank accounts for which she had a financial interest or signature authority.

57. The following is a summary for 2010 of foreign bank accounts that Defendant had a financial interest in, or signature authority over, with a maximum value over $90,000 during the year, the amount she did report, the value of the account on the date the FBAR was due to be filed if it was over $200,000, and the maximum willful FBAR penalty that could have been assessed on those accounts:

Foreign Bank	Last 4 of Account Number	Maximum Value in 2010	Maximum Value Reported by Defendant on FBAR	Value on June 30, 2011 (if over $200,000)	Maximum Willful FBAR Penalty
Woori Bank	1017	$ 1,829,760	$ -		$ 100,000
Woori Bank	1478	$ 487,504	$ -		$ 100,000
Woori Bank	2033	$ 967,267	$ -		$ 100,000
Woori Bank	2274	$ 5,410,828	$ -		$ 100,000
Woori Bank	2323	$ 8,339,809	$ -		$ 100,000
Woori Bank	2567	$ 578,818	$ -		$ 100,000
Woori Bank	2748	$ 423,580	$ -		$ 100,000
Woori Bank	3441	$ 136,278	$ -		$ 100,000
Woori Bank	4207	$ 2,190,102	$ -		$ 100,000
Woori Bank	4765	$ 5,084,023	$ -		$ 100,000
Woori Bank	4889	$ 849,328	$ -	$ 788,497	$ 394,248
Woori Bank	6397	$ 1,063,945	$ -		$ 100,000
Woori Bank	7795	$ 270,687	$ -		$ 100,000
Woori Bank	9362	$ 1,148,057	$ 305,885	$ 204,453	$ 102,226
Woori Bank	9368	$ 424,488	$ -		$ 100,000
			Total Maximum Penalty		$ 1,796,474

58. On August 20, 2019, the IRS assessed a willful FBAR penalty against Defendant for the year 2010 in the amount of $1,014,109.85.

Calendar Year 2011

59. For the year 2011, Defendant filed an FBAR but willfully failed to report all the foreign bank accounts for which she had a financial interest or signature authority.

60. The following is a summary for 2011 of foreign bank accounts that Defendant had a financial interest in, or signature authority over, with a maximum value over $90,000 during the year, the amount she did report, the value of the account on the date the FBAR was due to be filed if it was over $200,000, and the maximum willful FBAR penalty that could have been assessed on those accounts:

Foreign Bank	Last 4 of Account Number	Maximum Value in 2011	Maximum Value Reported by Defendant on FBAR	Value on June 30, 2012 (if over $200,000)	Maximum Willful FBAR Penalty
Woori Bank	0302	$ 2,195,780	$ -		$ 100,000
Woori Bank	0758	$ 3,021,000	$ -		$ 100,000
Woori Bank	2033	$ 162,663	$ -		$ 100,000
Woori Bank	2323	$ 8,093,548	$ -		$ 100,000
Woori Bank	3441	$ 141,448	$ -		$ 100,000
Woori Bank	3570	$ 777,162	$ -		$ 100,000
Woori Bank	4681	$ 2,125,485	$ -	$ 672,656	$ 336,328
Woori Bank	4889	$ 912,641	$ -	$ 830,069	$ 415,035
Woori Bank	5417	$ 586,620	$ -		$ 100,000
Woori Bank	6411	$ 176,629	$ -		$ 100,000
Woori Bank	9362	$ 714,908	$ 305,885		$ 100,000
			Total Maximum Penalty		$ 1,651,363

61. On August 20, 2019, the IRS assessed a willful FBAR penalty against Defendant for the year 2011 in the amount of $1,014,109.85.

Calendar Year 2012

62. For the year 2012, Defendant filed an FBAR but willfully failed to report all the foreign bank accounts for which she had a financial interest or signature authority.

63. The following is a summary for 2012 of foreign bank accounts that Defendant had a financial interest in, or signature authority over, with a maximum value over $90,000 during the year, the amount she did report, the value of the account on the date the FBAR was due to be filed if it was over $200,000, and the maximum willful FBAR penalty that could have been assessed on those accounts:

Foreign Bank	Last 4 of Account Number	Maximum Value in 2012	Maximum Value Reported by Defendant on FBAR	Value on June 30, 2013 (if over $200,000)	Maximum Willful FBAR Penalty
Woori Bank	2001	$ 128,677	$ -		$ 100,000
Woori Bank	3441	$ 128,677	$ -		$ 100,000
Woori Bank	3558	$ 3,048,903	$ -	$ 2,780,514	$ 1,390,257
Woori Bank	3908	$ 97,709	$ -		$ 100,000
Woori Bank	4681	$ 919,756	$ -		$ 100,000
Woori Bank	4889	$ 899,416	$ -	$ 930,959	$ 465,480
Woori Bank	5183	$ 99,033	$ -		$ 100,000
Woori Bank	5417	$ 296,314	$ -		$ 100,000
Woori Bank	8765	$ 630,809	$ -		$ 100,000
Woori Bank	9362	$ 577,415	$ -	$ 550,437	$ 275,219
Woori Bank	9546	$ 2,684,937	$ -		$ 100,000
Woori Bank	9689	$ 113,902	$ -		$ 100,000
			Total Maximum Penalty		$ 3,030,955

64. On August 20, 2019, the IRS assessed a willful FBAR penalty against Defendant for the year 2009 in the amount of $1,014,109.85.

FBAR Penalty Assessment

65. On April 23, 2018, Defendant signed a Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations for the years 2009, 2010, 2011, and 2012 to extend the statute of limitations on assessment to December 31, 2019.

66. On August 20, 2019, the IRS assessed willful FBAR penalties against Defendant for tax years 2009 through 2012 in the amount of $1,014,109.85 per year for a total of $4,056,439.40.

67. On August 26, 2019, notice and demand for payment was sent to Defendant for tax years 2009 through 2012.

68. Despite timely notice and demand for payment of the FBAR assessment, Defendant has failed to pay the FBAR and late payment penalties assessed against him for tax years 2009 through 2012.

69. Interest and penalties have accrued on the assessed FBAR penalties as provided by law.

70. As of August 6, 2020, Defendant was liable to the United States for $4,330,276.85, which is comprised of the FBAR penalty, interest, and penalties for late payment under 31 U.S.C. § 3717(e)(2) for tax years 2009 through 2012.

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III. Relief Requested

WHEREFORE, the United States of America requests the following relief from the Court:

A. Enter judgment in favor of the United States of America and against Defendant in the amount of $4,330,276.85 as of August 6, 2020, plus all statutory accruals, including interest and penalties, plus costs and expenses;

B. Grant the United States its costs incurred in bringing this action; and

C. Order any further relief the Court deems just and appropriate.

Respectfully submitted,

TRACY L. WILKISON
Acting United States Attorney
THOMAS D. COKER
Assistant United States Attorney
Chief, Tax Division

Dated: August 20, 2021

/s/
GAVIN GREENE
Assistant United States Attorney
Attorneys for the United States of America

Exhibit A

Foreign Bank	Last 4 of Account Number	Balance in 2009	Balance in 2010	Balance in 2011	Balance in 2012
Woori Bank	0207		Yes		
Woori Bank	0302	Yes	Yes	Yes	Yes
Woori Bank	0361	Yes	Yes	Yes	Yes
Woori Bank	0365	Yes	Yes	Yes	
Woori Bank	0368	Yes	Yes	Yes	
Woori Bank	0758	Yes			
Woori Bank	1017	Yes			
Woori Bank	1478	Yes			
Woori Bank	1926	Yes			
Woori Bank	2001	Yes	Yes		Yes
Woori Bank	2033	Yes			
Woori Bank	2274	Yes			
Woori Bank	2308	Yes			
Woori Bank	2323	Yes	Yes		
Woori Bank	2567	Yes		Yes	Yes
Woori Bank	2748	Yes			
Woori Bank	3001	Yes	Yes	Yes	Yes
Woori Bank	3441	Yes			
Woori Bank	3558		Yes	Yes	Yes
Woori Bank	3570		Yes		
Woori Bank	3626		Yes		
Woori Bank	3627		Yes	Yes	Yes
Woori Bank	3908		Yes	Yes	Yes
Woori Bank	4186		Yes		
Woori Bank	4207		Yes		
Woori Bank	4317		Yes		
Woori Bank	4681		Yes		
Woori Bank	4708				Yes
Woori Bank	4765		Yes	Yes	Yes
Woori Bank	4889		Yes		
Woori Bank	5183				Yes
Woori Bank	5282		Yes		
Woori Bank	5293		Yes		
Woori Bank	5301		Yes		
Woori Bank	5417		Yes		
Woori Bank	5711		Yes	Yes	Yes
Woori Bank	5806		Yes	Yes	Yes
Woori Bank	6005		Yes	Yes	
Woori Bank	6048			Yes	

Foreign Bank	Last 4 of Account Number	Balance in 2009	Balance in 2010	Balance in 2011	Balance in 2012
Woori Bank	6258		Yes	Yes	
Woori Bank	6397		Yes	Yes	
Woori Bank	6411		Yes		
Woori Bank	6539			Yes	
Woori Bank	6658			Yes	
Standard Chartered*	6699			Yes	
Woori Bank	6817			Yes	Yes
Woori Bank	7795			Yes	Yes
Woori Bank	7808			Yes	
Woori Bank	8740			Yes	Yes
Woori Bank	8765				Yes
Woori Bank	9362			Yes	Yes
Woori Bank	9368			Yes	Yes
Woori Bank	9534				Yes
Woori Bank	9546				Yes
Woori Bank	9676				Yes
Woori Bank	9689			Yes	Yes

* Standard Chartered First Bank Korea Limited