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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF ARIZONA**

10 Kiosko Multiservicios LLC;  
11  
12 Plaintiff,

No.

**COMPLAINT**

13 vs.

14 Financial Crimes Enforcement Network;  
15 Andrea Gacki, in her official capacity as  
16 Director of Financial Crimes Enforcement  
17 Network; U.S. Department of the Treasury;  
18 Scott Bessent, in his official capacity as  
19 Secretary of the Treasury; and Todd  
20 Blanche, in his official capacity as the  
21 Acting Attorney General of the United  
22 States,

23 Defendants.

24 Plaintiff files their Complaint against Defendants as follows:

25 **JURISDICTION AND VENUE**

1. Plaintiff brings their claims under the Administrative Procedure Act, 5  
U.S.C. § 702, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202, as well as  
directly under the U.S. Constitution. *See Ex parte Young*, 209 U.S. 123 (1908). Plaintiff

1 seeks declaratory and injunctive relief against the federal government’s geographic  
2 targeting order imposing reporting requirements for cash transactions over \$1,000 in  
3 certain locations near the border. *See* Geographic Targeting Order Imposing  
4 Recordkeeping and Reporting Requirements on Certain Money Services Businesses  
5 Along the Southwest Border, 91 Fed. Reg. 11456 (Mar. 10, 2026) (hereinafter, the  
6 “Border GTO”).

7  
8 2. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331, as  
9 Plaintiff’s claims arise under federal law.

10 3. Venue is proper in the United States District Court for the District of  
11 Arizona under 28 U.S.C. § 1391(e)(1) because the Border GTO specifically targets  
12 businesses located within the District, because Plaintiff is challenging the application of  
13 the Border GTO to businesses that are located within the District, and because Plaintiff  
14 resides within the district.  
15

16 **PARTIES**

17 4. Plaintiff Kiosko Multiservicious LLC (hereinafter, “Kiosko”) is a limited  
18 liability company organized under the laws of the State of Arizona. Kiosko is subject to  
19 the Border GTO because it is registered with Financial Crimes Enforcement Network  
20 (hereinafter “FinCEN”) as a Money Services Business, because it provides services that  
21 fit within the definition of a Money Services Business, and because it is located in within  
22 one of the counties subject to the Border GTO. Kiosko has its principal place of business  
23 in Phoenix, Arizona.  
24  
25



1           10. Plaintiff Kiosko is a small, independently owned business that provides  
2 money transfers, money orders, and check cashing services to average people at six retail  
3 locations in Maricopa County, Arizona. Kiosko’s customers are overwhelmingly locals in  
4 Maricopa County, Arizona where Kiosko’s six storefronts are located. Most Kiosko  
5 customers are regulars who use Kiosko’s services to do perfectly normal, legal things,  
6 such as cash payroll checks, pay rent, and send money to family.  
7

8           11. These financial services are important for customers who do not have bank  
9 accounts and who rely on businesses like Kiosko for financial services that they need to  
10 live their lives.

11           12. Between 30% to 40% of the financial services transactions provided by  
12 Kiosko are \$1,000 or more. This makes sense, because the most common reasons for  
13 using these services—things like cashing payroll checks and obtaining money orders to  
14 pay rent—involve values of \$1,000 or more.  
15

16           13. Because of the services that it offers, Plaintiff Kiosko is regulated as a  
17 Money Services Business (“MSBs”).

18           14. Federal law defines an MSB to include businesses that cash checks, deal in  
19 foreign exchange, issue traveler’s checks or money orders, and provide money  
20 transmission services. 31 C.F.R. § 1010.00(ff).  
21

22           15. MSBs are required to register with FinCEN, to put in place anti-money  
23 laundering policies and procedures, and to keep records of certain transactions, and to file  
24 reports with the federal government.  
25

1 16. Some MSBs are large corporations—*e.g.*, Western Union. But many are  
2 small neighborhood businesses like Kiosko that cash checks, sell money orders, and  
3 provide other similar financial services. Neighborhood MSBs can stand alone or can be  
4 situated inside other local businesses, like grocery stores or convenience stores.

5 17. Plaintiff Kiosko falls within the definition of an MSB because it offers  
6 money transfers, money orders, and check cashing services.

7 18. Plaintiff Kiosko is therefore registered with FinCEN as an MSB.

8 19. Federal law requires that MSBs report all cash transactions in amounts over  
9 \$10,000 to FinCEN using a form called a Currency Transaction Report (“CTR”). 31  
10 C.R.F. § 1010.311.  
11

12 20. This \$10,000 reporting requirement applies to all covered financial  
13 institutions across the county; it is neutral as to the location of the financial institution.  
14 *See* 31 C.F.R. § 1010.310 (applying to “all financial institutions”).  
15

16 21. The information that must be reported in each Currency Transaction Report  
17 is extensive, including (1) the name, address, business or profession and social security  
18 number of the person conducting the transaction; (2) similar information as to the person  
19 or organization from whom it was conducted; (3) a summary description of the nature of  
20 the transaction, the type amount, and denomination of the currency involved and a  
21 description of any check involved in the transaction; (4) the type of identification  
22 presented; and (5) the identity of the reporting financial institution.  
23

24 22. FinCEN has estimated that each CTR takes eight minutes to complete. 89  
25 Fed. Reg. 7767, 7768 (Feb. 5, 2024). However, this is an average estimate that includes

1 large firms with automated processes to generate the reports. 85 Fed Reg. 29022 (May  
2 14, 2020). For non-bank files who do not have automated processes, FinCEN estimates  
3 that each CTR takes 23.93 minutes to complete. *Id.*

4 23. Plaintiff Kiosko does not have automated procedures to file CTRs, as it  
5 typically does not handler over-\$10,000 transactions and therefore typically does not  
6 need to file CTRs in the course of its business.

7 24. MSBs must submit these CTRs to the federal government regardless of  
8 whether there is any ground for suspicion or wrongdoing.

9 25. For transactions over \$3,000, MSBs are required to collect information  
10 about transactions—including identifying information about the customer—and to retain  
11 that information in their records.

12 26. Although MSBs are required to collect and retain this information for  
13 transactions over \$3,000 but below \$10,000, there is generally no requirement to report  
14 information to the federal government.

15 27. The privacy of information that MSBs collect about their customers is  
16 protected by federal law. Federal law imposes privacy obligations on any “institution that  
17 is significantly engaged in financial activities,” 16 C.F.R. § 313.3, which includes entities  
18 that provide services covered by the Border GTO. Under these requirements, a business  
19 offering such services cannot “directly or through any affiliate, disclose any nonpublic  
20 personal information about a consumer to a nonaffiliated third party” without providing  
21 notice and “a reasonable opportunity, before you disclose the information...to opt out of  
22 the disclosure.” *Id.* at § 313.10.  
23  
24  
25

1 28. For transactions under \$3,000, MSBs are not generally required to collect  
2 information about their customers.

3 29. The vast majority of the money services transactions at Kiosko are beneath  
4 these thresholds, so for most such transactions they are not required to collect any  
5 information from their customers.

6 30. Kiosko sometimes collects information for transactions below \$3,000 for  
7 their own purposes; for instance, sometimes they ask a customer to show identification.  
8 But the information that they ask for does not encompass all the detailed information  
9 required by a CTR. And for some small-dollar transactions, Kiosko does not collect any  
10 information at all.  
11

12 31. Kiosko does not cash checks of \$10,000 or more but will do a wire transfer  
13 for over \$10,000 (which occurs only once or twice per year, if at all). Kiosko typically  
14 only files a CTR once or twice per year in all the years that it has been in business.  
15 Kiosko did not have any over-\$10,000 transactions in 2025 or from January 1, 2026  
16 through March 29, 2026.  
17

18 **The March 10, 2026, Border GTO and History of Prior Geographic Targeting**  
19 **Orders**  
20

21 32. On March 10, 2026, FinCEN issued the Border GTO targeting four  
22 counties in Arizona (Maricopa, Pima, Santa Cruz, and Yuma counties), five counties in  
23 Texas, three counties in New Mexico, and 11 zip codes in California. *See Geographic*  
24 *Targeting Order Imposing Recordkeeping and Reporting Requirements on Certain*  
25

1 *Money Services Businesses Along the Southwest Border*, 9 Fed. Reg. 11456 (Mar. 10,  
2 2026).

3 33. Under the Border GTO, MSBs located within the targeted counties and zip  
4 codes must file a CTR for every cash transaction of \$1,000 or more.

5 34. This means that for a cash transaction as small as \$1,000, an MSB must  
6 collect the customer information that is required by a CTR, even though federal law  
7 generally does not require MSBs to collect customer information for transactions under  
8 \$3,000.  
9

10 35. This also means that for each cash transaction as small as \$1,000, MSBs  
11 must report that customer information to FinCEN, even though such reports generally are  
12 not required for transactions under \$10,000.

13 36. In practice, the Border GTO means that cashing a check for \$1,000 or  
14 more, using \$1,000 or more to purchase a money order (for instance, to pay the rent), or  
15 using \$1,000 or more in cash to make a wire transfer (for instance, to send money to  
16 family abroad) will now trigger a report to the federal government.  
17

18 37. For businesses, the Border GTO means business-crushing burdens.  
19 Currently, the vast majority of transactions by MSBs do not require CTRs, because they  
20 are well below the \$10,000 reporting threshold. But a substantial portion of those  
21 transactions are not below \$1,000, which means that, under the Border GTO, many  
22 transactions will require CTRs. This will result in a huge increase in costs to Border  
23 GTO-affected MSBs as they dedicate many hours per week just to gathering information  
24  
25

1 from customers and then filling out paperwork to report that information to the federal  
2 government.

3 38. Customers who do not want to provide private information can simply  
4 move their business to other companies. Targeted businesses will therefore lose revenue  
5 as customers flee Border GTO-affected MSBs for other MSBs not targeted by the Border  
6 GTO and to banks, which are not subject to the Border GTO at all.

7  
8 39. For businesses, the Border GTO also invades the privacy of business  
9 records by requiring MSBs to provide information on large numbers of transactions that  
10 otherwise would not be reported to the federal government.

11 40. And, of course, for individuals, the Border GTO authorizes a significant  
12 invasion of personal privacy, as everyday, ordinary, and perfectly lawful transactions of  
13 \$1,000 will be reported to the federal government.

14  
15 41. The amount of time that customers spend to access services provided by  
16 MSBs will also increase, as it will take time for customers to provide the information  
17 required by the additional paperwork.

18 42. By requiring MSBs to collect this information from individuals, the Border  
19 GTO also enlists MSBs to conduct surveillance on the private transactions of their own  
20 customers.

21  
22 43. FinCEN justifies the Border GTO as “in furtherance of Treasury’s efforts to  
23 combat illicit finance by drug cartels and other illicit actors along the southwest border of  
24 [sic] United States.” 91 Fed. Reg. at 11456.

25 44. The March 10, 2026 Border GTO is a renewal of two prior Border GTOs.

1           45. On March 14, 2025, FinCEN issued a Geographic Targeting Order  
2 targeting thirty zip codes near the southwest border in Texas and California and required  
3 MSBs in the targeted zip codes file CTRs for all transactions over \$200. *See Issuance of*  
4 *a Geographic Targeting Order Imposing Additional Recordkeeping and Reporting*  
5 *Requirements on Certain Money Services Businesses Along the Southwest Border*, 90  
6 Fed. Reg. 12106 (Mar. 14, 2025).

7  
8           46. MSBs in San Diego, San Antonio, and El Paso filed suit following the  
9 March 14, 2025 rule. *See Novedades y Servicios Inc. v. Financial Crimes Enforcement*  
10 *Network*, No. 3:25-cv-00886-JLS-DDL (S.D. Cal. Filed Apr. 15, 2025); *Tex. Ass'n of*  
11 *Money Servs. Bus. v. Bondi*, No. SA-25-CA-00344-FB (W.D. Tex. Filed Apr. 1, 2025);  
12 *Valuta Corporation, Inc. v. Financial Crimes Enforcement Network*, No. 3:25-cv-00191  
13 (W.D. Tex. Filed May 30, 2025). The MSBs were granted temporary restraining orders  
14 and preliminary injunctions in all three cases, and interlocutory appeals were  
15 subsequently taken to the 5<sup>th</sup> and 9<sup>th</sup> Circuit Courts of Appeals and are pending decisions  
16 as of the date of filing.

17  
18           47. On September 10, 2025, FinCEN issued a Geographic Targeting Order  
19 which expanded the scope of the March 14, 2025 rule. *See Geographic Targeting Order*  
20 *Imposing Recordkeeping and Reporting Requirements on Certain Money Services*  
21 *Businesses Along the Southwest Border*, 90 Fed. Rep. 43557 (Sept. 10, 2025).

22  
23           48. The September 10, 2025, rule expanded the geographic area to include  
24 Santa Cruz County and Yuma County in Arizona and increased the reporting threshold to  
25 require MSBs in the targeted areas to file CTRs for all transactions of \$1,000 or more. *Id.*

1 49. On March 10, 2025, FinCEN issued the Border GTO at issue here, which  
2 further expanded the geographic area to include Maricopa County and Pima County in  
3 Arizona. *See* 91 Fed Reg. at 11456.

4 50. An internal FinCEN memorandum proposing the March 10, 2025  
5 Geographic Targeting Order, produced by the United States in one of the cases  
6 challenging the rule, states that in FinCEN’s view, “MSBs are vulnerable to exploitation  
7 by money launderers,” and that “FinCEN has identified money transfers through MSBs  
8 as a financial typology associated with Mexico-based drug cartels.” In FinCEN’s view,  
9 “MSBs along the southwest border are particularly at risk for abuse by money launderers  
10 for cartels.”  
11

12 51. In FinCEN’s view, some MSBs are themselves criminal actors, as “services  
13 provided by MSBs are sometimes provided wittingly to drug cartels, turning the MSB  
14 into a professional money launderer.”  
15

16 52. The same internal FinCEN memorandum, however, also concedes that  
17 “most of the business that MSBs conduct is legitimate and essential.” Services offered by  
18 MSBs are “tailored to persons without bank accounts” to provide “competitively priced  
19 services and [a] convenient location offered near the border.”  
20

21 53. The internal FinCEN memorandum therefore acknowledges that the Border  
22 GTO will indiscriminately sweep up information about both “licit and illicit”  
23 transactions.

24 54. The internal FinCEN memorandum states that the information provided by  
25 the Border GTO will “generate new leads and identify new and related subjects in

1 ongoing cases.” It “may allow the identification of a comprehensive network of potential  
2 money mules in the geographic area in question,” may “create leads related to  
3 professional money launderers,” and will “likely capture information about the  
4 laundering of funds related to multiple criminal typologies.”

5 55. According to the internal FinCEN memorandum, the Border GTO will also  
6 “support investigations into MSBs themselves that may be complicit in supporting illicit  
7 activity and demonstrate poor AML/CFT controls.”  
8

9 56. The internal memorandum states that the Border GTO will “provide  
10 FinCEN with a snapshot in time of a significant sample of cash transactions in the  
11 Covered Geographic Area, allowing FinCEN to more fully understand money laundering  
12 risks related to MSBs.”  
13

14 57. The Border GTO applies to twelve counties through Arizona, Texas, and  
15 New Mexico and to 11 zip codes in California.

16 58. Four of the counties (Maricopa, Pima, Santa Cruz, and Yuma) are located  
17 in Arizona.

18 59. Taken together, these counties in Arizona comprise a part of the country  
19 with a population of over 6 million persons.  
20

21 60. The counties in New Mexico (Bernalillo County, Dona Ana County, and  
22 San Juan County) and Texas (Cameron County, El Paso County, Hidalgo County,  
23 Maverick County, and Webb County) and the zip codes in California (92231, 92249,  
24 92281, 92283, 91910, 92101, 92113, 92117, 92126, 92154, and 92173), comprise an  
25 additional 3.9 million people.

1 61. Because many of the counties and zip codes are located near active border  
2 crossings, many more people pass through the targeted areas each year.

3 62. The targeted locations are not all contiguous, and locations next to the  
4 targeted areas are not always targeted. For example, Kiosko is located in Maricopa  
5 County, but four counties adjacent to Maricopa County are not touched by the Border  
6 GTO.

7  
8 63. FinCEN's internal memorandum acknowledges that "MSBs in Arizona and  
9 New Mexico are likely also vulnerable to exploitation by drug cartels."

10 64. To the extent that criminals are currently engaged in money laundering  
11 using over \$1,000 transactions at MSBs, criminals can respond to the Border GTO by  
12 simply moving their money to a county that is not covered by the Border GTO.

13  
14 65. The internal FinCEN memorandum proposing the Border GTO explains  
15 that FinCEN targeted those areas based on "risk factors that included their proximity to  
16 the border and to a border crossing" as well as based on "whether the number of CTRs  
17 filed in the ZIP code is high relative to the population, in comparison to other ZIP codes."

18 66. In other words, FinCEN targeted these zip codes because they are close to  
19 border crossings and because the number of CTRs filed in these counties (for over  
20 \$10,000 transactions) is high relative to the population.

21  
22 67. The factors that the government relied on do not provide a reasoned basis to  
23 explain why these requirements are being imposed on these particular locations and not  
24 neighboring counties and zip codes.

1 68. The fact that a high number of over \$10,000 transactions are occurring in  
2 these locations does not mean that those transactions are illegitimate. It simply means that  
3 there are more cash transactions occurring.

4 69. The internal FinCEN memorandum does not even provide a rational  
5 concerning the counties in Arizona. It only stated, “[w]hile MSBs in Arizona and New  
6 Mexico are likely also vulnerable to exploitation by drug cartels, GID chose to keep this  
7 GTO limited in scope, focusing on states containing the major U.S.-Mexico border  
8 crossing, both to limit burden and be able to assess trends and effectiveness. However,  
9 FinCEN may consider expanding this GTO to ZIP codes in Arizona and New Mexico in  
10 the future.”  
11

12 70. Maricopa County, where Kiosko is located, has a population of 4.7 million  
13 persons and is one of the largest counties within the United States by population size.  
14

15 71. If a high number of over \$10,000 transactions are occurring, it does not  
16 mean that those transactions are illegitimate. It simply means that there are more cash  
17 transactions occurring.

18 72. In addition, even if a high number of over \$10,000 transactions in the  
19 targeted areas was a sign of illicit financial activity (and it is not), it would not follow that  
20 smaller-dollar transactions of \$1,000 are more likely to be associated with illicit activity  
21 in those jurisdictions.  
22

23 73. Beyond the irrelevant fact that over-\$10,000 transactions occur in these  
24 jurisdictions, FinCEN has not articulated any explanation for targeting over-\$1,000  
25 transactions in these jurisdictions rather than other jurisdictions along the border.

1 74. FinCEN certainly has not established individualized probable cause to  
2 support targeting the MSBs in these jurisdictions.

3 75. FinCEN also has not applied to a magistrate for a warrant to target the  
4 MSBs that are covered by the Border GTO.

5 76. The internal FinCEN memorandum states that, if FinCEN believes  
6 criminals have moved to other zip codes not covered by the Border GTO, it will “expand  
7 or otherwise modify the geographic scope of this order to cover MSBs in additional ZIP  
8 codes or counties in any further issuances.”

9 77. The Border GTO becomes effective beginning April 6, 2025, and  
10 supposedly will end on September 2, 2026.

11 78. FinCEN has renewed the Border GTO twice before and has repeatedly  
12 renewed and expanded past geographic targeting orders. FinCEN has given no indication  
13 that it will not continue to renew the Border GTO after September 2, 2026.  
14

15 79. MSBs that fail to comply with the requirements of the Border GTO face  
16 civil fines up to \$71,545 per violation, as well as criminal liability.  
17

18 80. Although the Border GTO was published in the Federal Register, *see* 91  
19 Fed. Reg. 11456, it was issued by FinCEN without any prior notice or any opportunity to  
20 comment.  
21

### 22 **Application of the Border GTO to Plaintiff Kiosko**

23 81. Kiosko is subject to the Border GTO because it is a registered MSB located  
24 in Maricopa County, Arizona.  
25

1 82. The Border GTO will cause customers to leave Kiosko for other MSBs that  
2 won't have to take and report their personal information or to banks which are not subject  
3 to the Border GTO. Because the Border GTO does not include nearby counties nor does  
4 it apply to other types of financial institutions such as banks, customers will simply go to  
5 nearby banks or neighboring counties to make their transactions.

6 83. Customers who do not want to provide their information to Kiosko can  
7 therefore drive to access the same services without being subject to the Border GTO.  
8

9 84. Kiosko also expects to suffer reputational damage because its customers  
10 will view Kiosko as prying into their personal information (either on its own initiative or  
11 at the behest of the government) when other MSBs outside the targeted area are not.

12 85. The Border GTO will also result in an enormous increase in expenses  
13 related to particularly preparing CTRs. For instance, each week between 30 to 45% of  
14 Kiosko's transactions are for over \$1,000. In March 2026, Kiosko had 12,001 total  
15 money transactions, of which 4,066 were for \$1,000 or more, but less than \$10,000.  
16 Kiosko anticipates a similar number of over-\$1,000 transactions each month, that is if  
17 customers simply don't take their business elsewhere.  
18

19 86. Prior to the Border GTO, a routine transaction at Kiosko took 1 to 2  
20 minutes.  
21

22 87. For a filer like Kiosko without automated filing procedures, FinCEN  
23 estimates that each CTR takes 23.9 minutes to complete. With approximately 4,000 over-  
24 \$1,000 transactions each month That means approximately 9,720 minutes per month, or  
25 1,595 hours per month, just for reporting. And that does not even include the time spent

1 explaining to customers why Kiosko now has to take their personal information when it  
2 never did before.

3 88. The Border GTO has already caused customer walk aways and lost  
4 transactions, particularly during peak periods on weekday afternoons and weekends when  
5 stores are busiest and delays are most damaging. To meet these paperwork burdens  
6 (assuming customers do not just take their business elsewhere), Kiosko would have to  
7 hire and train at least six employees (one employee per retail location) just to collect  
8 customer information and prepare CTRs.  
9

10 89. Kiosko cannot afford to hire and train six employees just to prepare CTRs,  
11 and Kiosko also cannot survive if its customers stop coming to the business. So, either  
12 way, Kiosko expects to have to close locations if it is not put out of business entirely by  
13 the Border GTO.  
14

15 90. The Border GTO will also invade the privacy of Kiosko, because it requires  
16 the affirmative disclosure of private business records without suspicion that Kiosko has  
17 done anything wrong. The government has stated that part of the purpose of the Border  
18 GTO is to investigate MSBs for wrongdoing.  
19

20 91. The government has not suggested that it has probable cause to suspect  
21 Kiosko of any wrongdoing, nor has the government presented a warrant for Kiosko's  
22 customers' private information or financial records.

23 92. If the government ever had a warrant based on a real concern about actual  
24 crime, Kiosko would cooperate. Kiosko has no desire to deal with criminals or to protect  
25 criminals.

1 93. Kiosko does not want to provide this information on its customers to the  
2 federal government because they have a right to privacy.

3 94. Kiosko is worried that if the government can see Kiosko's customers'  
4 private financial transactions, it can see their familial and personal affiliations, their  
5 interests, and can even profile their beliefs and thoughts.

6 95. Kiosko wants no part in the invasion of customer's private lives. Its  
7 customers have a right to privacy.

8 96. Kiosko also fears that the government will make a mistake and come after  
9 Kiosko with no basis. Kiosko fears it will mistakenly be put on a list of potential  
10 criminals, when in fact Kiosko has done nothing wrong.

11 97. The Border GTO will not be effective to fight illicit activity. In Kiosko's  
12 experience, the vast majority of customers are average people who regularly use Kiosko's  
13 services to do things like pay rent, cash payroll checks, and send money to family—and  
14 the government has not suggested that they suspect anything different.

15 98. The Border GTO will also be ineffective because it allows other MSBs in  
16 nearby counties to continue reporting only transactions over \$10,000. That means illicit  
17 actors—more mobile and sophisticated than the average low-income local—will just go  
18 to nearby counties to do their crimes.

19 99. Meanwhile, for Kiosko, the loss of revenue and increased costs are too  
20 much to bear. And even if the GTO is not renewed (which appears unlikely as it has been  
21 renewed twice before), the reputational damage will be done. Kiosko will likely go out of  
22 business.  
23  
24  
25

**CLAIMS FOR RELIEF**

**Count One: The Border GTO Violates the Fourth Amendment**

**(5 U.S.C. § 706(2)(A) and (B); *Ex parte Young*, 209 U.S. 123 (1908))**

100. Plaintiff incorporates by reference all previous allegations.

101. The Fourth Amendment to the U.S. Constitution protects the “right to the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” and provides that “no Warrants shall issue, but upon probable cause, supported by Oath or Affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

102. The Fourth Amendment prohibits general warrants, meaning warrants that allow the government to broadly search of evidence of crimes without establishing particularized probably cause specific to the person or place to be searched.

103. The Border GTO operates as a general warrant insofar as it was fashioned by law enforcement to sweep up information about otherwise private cash transactions throughout targeted counties in order to further law enforcement’s stated objective for combatting Mexican cartels, without any individualized probable cause.

104. The \$1,000 threshold set by the Border GTO results in an unreasonable search because it requires businesses to report information about their customers’ ordinary, everyday cash transactions without any individualized suspicion or showing of probable cause.

105. The Border GTO infringes on individuals’ and businesses’ reasonable expectation of privacy in their ordinary, everyday, small-dollar cash transactions, and the

1 Border GTO demands information that businesses would otherwise have a legal and  
2 contractual obligation to hold private and confidential.

3 106. The Border GTO also conscripts MSBs, forcing them to obtain information  
4 from their customers that they would not otherwise solicit, even if they do not suspect  
5 those customers of any wrongdoing, and to report that information to federal law  
6 enforcement.

7  
8 107. The Border GTO will capture voluminous information about ordinary,  
9 lawful, and legitimate transactions without any probable cause.

10 108. Plaintiff is injured by this Fourth Amendment violation insofar as the  
11 Border GTO will provide the government with information about their private cash  
12 transactions.

13  
14 109. Because the Border GTO is unconstitutional under the Fourth Amendment,  
15 it must be vacated and enjoined.

16 **Count Two: The Border GTO Violates The Fifth Amendment**

17 **5 U.S.C. § 706(2)(A) and (B); *Ex parte Young*, 209 U.S. 123 (1908))**

18  
19 110. Plaintiff incorporates by reference all previous allegations.

20 111. The Fifth Amendment to the U.S. Constitution provides that no person  
21 “shall be compelled in any criminal case to be a witness against himself.”

22  
23 112. The Fifth Amendment bars the government from compelling an individual  
24 from filing reports containing information that the government intends to use to uncover  
25 evidence of criminal wrongdoing.

1 113. The reports that are required by the Border GTO are provided to law  
2 enforcement and are available to law enforcement for purposes of criminal law  
3 enforcement; indeed, these law enforcement aims are the only stated reason for requiring  
4 the reports directed by the Border GTO.

5 114. The government has candidly acknowledged that the purpose of the reports  
6 that are required by the Border GTO is to uncover evidence of criminal wrongdoing.  
7

8 115. Accordingly, for individual customers, the reporting required by the Border  
9 GTO creates a real and appreciable risk of self-incrimination.

10 116. The Border GTO, meanwhile, conscripts businesses as agents of the  
11 government to gather this information from their customers, in violation of those  
12 customers' right against self-incrimination.  
13

14 117. Because the Border GTO is unconstitutional under the Fifth Amendment, it  
15 must be vacated and enjoined.

16 **Count Three: The Border GTO Is *Ultra Vires* Because This Surveillance Presents a**  
17 **Major Question and Is Not Sufficiently Authorized by Statute**  
18 **(5 U.S.C. § 702(2)(A) and (C); *Ex parte Young*, 209 U.S. 123 (1908))**  
19

20 118. Plaintiff incorporates by reference all previous allegations.

21 119. Under the major questions doctrine, courts hold that statutes should not be  
22 interpreted to allow agencies to adopt policies of economic and political significance  
23 unless authority to adopt such a policy is clear on the face of the statute. This doctrine  
24  
25

1 upholds basic separation of powers principles insofar as it ensures that such decisions  
2 will be made by Congress, rather than by executive agencies.

3 120. The surveillance regime put in place by the Border GTO implicates the  
4 major questions doctrine because it singles out an area with a population over 6 million  
5 persons for additional burdensome reporting obligations not imposed on any other part of  
6 the country.

7  
8 121. The surveillance regime put in place by the Border GTO implicates the  
9 major questions doctrine because it will impose significant costs of the businesses that  
10 are subjected to these new obligations, while also infringing on the privacy rights of those  
11 businesses' customers.

12  
13 122. The statute under which FinCEN purported to act, 31 U.S.C. § 5326,  
14 contemplates more limited orders targeted at more discrete geographic areas and does not  
15 clearly authorize executive officials to adopt this type of sweeping surveillance system  
16 for an area comprising over 6 million persons.

17  
18 123. Accordingly, the Border GTO is *ultra vires* and exceeds the authority  
19 granted to the executive branch by the statute under which FinCEN purported to act.

20  
21 124. Plaintiff is injured by this *ultra vires* action insofar as FinCEN has acted  
22 without statutory authority to issue burdensome reporting obligations that target their  
23 otherwise private cash transactions.

24  
25 125. Because the Border GTO is *ultra vires* and exceeds the authority granted to  
the executive branch, it must be vacated and enjoined.

1 **Count Four: The Border GTO Is Arbitrary and Capricious, and Contrary to Law,**  
2 **In That It Targets Counties, Businesses, and Transactions Without Sufficient**  
3 **Explanation**

4 **(5 U.S.C. § 706(2)(A))**

5  
6 126. Plaintiff incorporates by reference all previous allegations.

7 127. Under the Administrative Procedure Act (“APA”), a court must “hold  
8 unlawful and set aside agency action” that is “arbitrary and capricious, an abuse of  
9 discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

10  
11 128. The Border GTO is arbitrary and capricious insofar as it selected counties  
12 without articulating any satisfactory explanation why those particular counties should be  
13 targeted for higher reporting obligations.

14 129. The Border GTO also is arbitrary and capricious insofar as it offers no  
15 satisfactory explanation for setting the reporting threshold for MSBs within those  
16 counties at \$1,000.

17  
18 130. The Border GTO is also arbitrary and capricious insofar as it failed to  
19 consider the impact of the Border GTO on MSBs.

20 131. Under 31 U.S.C. § 5236(a), FinCEN may impose a GTO if “reasonable  
21 grounds exist for concluding that additional recordkeeping and reporting requirements are  
22 necessary to carry out the purposes of this subtitle or to prevent evasions thereof.”  
23 FinCEN has not articulated any such “reasonable grounds” to support the sweeping  
24 obligation imposed by the Border GTO.  
25

1 132. Because the Border GTO is arbitrary and capricious, and contrary to law, it  
2 must be vacated and enjoined.

3 **Count Five: The Border GTO Was Promulgated Without Following Notice-And-**  
4 **Commend Procedures**  
5 **(5 U.S.C. § 706(2)(D))**  
6

7 133. Plaintiff incorporates by reference all previous allegations.

8 134. Under the APA, agencies must engage in notice-and-comment rulemaking  
9 before adopting rules that affect the rights and obligations or regulated entities, unless  
10 some statutory exception applies. *See* 5 U.S.C. § 553.  
11

12 135. Under the APA, agency action is a “rule” requiring notice-and-comment  
13 procedures if it sets out prescriptive requirements to be followed for broad classes of  
14 persons, rather than adjudicating the rights and obligations of specific identified  
15 individuals.

16 136. Under the APA, the Border GTO is a rule requiring notice-and-comment  
17 rulemaking because it prescribes reporting requirements for all MSBs within a large  
18 geographic area covering thirty separate zip codes, with a population over a million  
19 persons.  
20

21 137. However, FinCEN promulgated the Border GTO without any notice to  
22 affected parties and without any opportunity to comment.  
23

24 138. Because the Border GTO was issued in violation of procedural  
25 requirements set out in the APA, it must be vacated and enjoined.

**PRAYER FOR RELIEF**

1  
2 WHEREFORE, Plaintiff prays for a judgment against Defendants, and each of  
3 them, for the following relief:

- 4 1. An order vacating and setting aside the Border GTO;  
5  
6 2. An injunction enjoining the Defendants from implementing the Border GTO and  
7 require MSBs to collect and report information on over \$1,000 transactions in the  
8 targeted counties;  
9  
10 3. A declaration that the Border GTO is unlawful insofar as it violates the Fourth and  
11 Fifth Amendments, is *ultra vires* insofar as it was issued without statutory  
12 authority, and violates the Administrative Procedure Act;  
13  
14 4. An award of Plaintiff's costs and expenses in this action, together with reasonable  
15 attorneys' fees, under the Equal Access to Justice Act or other applicable law; and  
16  
17 5. Any other legal or equitable relief that the Court deems just and proper.

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24  
25  
RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of April, 2026.

**Saldivar & Associates, PLLC**

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