

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
a municipal corporation,
400 6th Street, NW
Washington, DC 20001, *ex rel.*

TRIBUTUM, LLC,
1621 Central Ave
Cheyenne, WY 82001,

Plaintiffs,

v.

MICHAEL J. SAYLOR,
3030 K Street NW, PH 111
Washington, DC 20007

and

MICROSTRATEGY, INC.,
1850 Towers Crescent Plaza
Vienna, VA 22182,

Defendants.

Case No. 2021 CABSLD 001319 B
Judge Anthony C. Epstein

JURY TRIAL DEMANDED

DISTRICT OF COLUMBIA’S COMPLAINT IN INTERVENTION
AND JURY DEMAND

Plaintiff the District of Columbia (the “District”), through its Office of the Attorney General, brings this action against Defendants Michael J. Saylor and MicroStrategy, Inc. for violations of the District’s False Claims Act, D.C. Code § 2–381.01, *et seq.*, and the District of Columbia Tax Code, D.C. Code § 47-101, *et seq.* In support of its claims, the District states as follows:

INTRODUCTION

1. Defendant Michael J. Saylor has unlawfully deprived the District of Columbia of tens of millions of dollars in tax revenue. Defendant Saylor knowingly avoided income taxes he owed to the District by fraudulently claiming to be a resident of other, lower-tax jurisdictions while maintaining his domicile and place of abode in the District, including living in a luxury penthouse on the Georgetown waterfront and docking multiple yachts on the District's Potomac riverfront from 2005 to present.

2. The District's income taxes pay for its essential infrastructure, including its schools, its police and fire departments, and the maintenance of its roads, bridges, and waterways. Defendant Saylor enjoyed this infrastructure, these services, and all the other tangible and intangible benefits of living in the District for nearly 20 years. But despite considering the District "a major center of civilization," Defendant Saylor refused to pay the taxes he owed—what Justice Holmes once described as "what we pay for civilized society." *Compania Gen. de Tabacos de Filipinas v. Collector of Internal Revenue*, 275 U.S. 87, 100 (1927) (Holmes, J., dissenting).

3. Defendant Saylor knew that living in the District meant that he had the obligation to pay income taxes in the District. Saylor is a highly educated, sophisticated businessman, and the founder of MicroStrategy, a publicly-traded business analytics and technology company. For more than 20 years, Saylor served as MicroStrategy's Chairman and Chief Executive Officer, overseeing a company with hundreds of millions of dollars in annual revenue. Saylor stepped down as CEO of MicroStrategy in August 2022.

4. Defendant MicroStrategy knew that Saylor was in fact a District resident, but instead of accurately reporting his address to local and federal tax authorities and correctly

withholding District taxes, the company conspired with Defendant Saylor to facilitate his tax avoidance scheme.

5. The District brings this action under the False Claims Act and the District's tax laws to hold Defendants Saylor and MicroStrategy accountable for Saylor's obligation to pay District income taxes. The District seeks payment for the back taxes owed, penalties, interest, treble damages, and all other remedies available under the law.

JURISDICTION

6. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code § 11-921 and the District's False Claims Act, D.C. Code § 2-381.03(a).

7. This Court has personal jurisdiction over Defendants Michael J. Saylor and MicroStrategy pursuant to D.C. Code §§ 13-422 and 13-423(a).

PARTIES

8. Plaintiff the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the government for the United States. The District is represented by its chief legal officer, the Attorney General for the District of Columbia, who has general charge to conduct the legal business of the District and is responsible for upholding the public interest.

9. The Relator, Tributum, LLC, is a Wyoming Limited Liability Company registered to conduct business within the District and permitted to file civil actions within the District. The Relator commenced this action for violations of the District's False Claims Act on behalf of itself and the District.

10. Defendant Michael J. Saylor is a longtime resident of the District of Columbia and the founder and former Chief Executive Officer of the publicly traded company MicroStrategy,

Inc. Saylor is also the Founder and Trustee of the Constitution Foundation (d/b/a as, formerly, the “Saylor Foundation” and, presently, “Saylor Academy”), headquartered at 1875 Connecticut Avenue NW, 10th Floor, Washington, D.C. 20009.

11. Defendant MicroStrategy, Inc. is a publicly traded business analytics software company, incorporated in Delaware, with its principal place of business at 1850 Towers Crescent Plaza, Tysons Corner, VA 22182.

FACTS

A. Defendant Saylor Lived in the District from 2005 Through 2021 Without Paying Income Taxes.

12. After founding MicroStrategy in Delaware in the 1980s, Defendant Saylor considered moving the company’s headquarters to the District; however, MicroStrategy co-founder Sanju Bansal advised Defendant Saylor that the company would reduce its tax liability by instead locating its headquarters in Virginia. Acting on Mr. Bansal’s suggestion, Defendant Saylor established MicroStrategy’s corporate headquarters in Tysons Corner, Virginia in the 1990s and likewise moved his personal residence to Northern Virginia.

13. MicroStrategy is an enterprise analytics company providing software tools and services that help large companies identify trends within their businesses by parsing high volumes of customer data. The company survived the rough-and-tumble of the dotcom era and has maintained a steady roster of Fortune 100 clientele. While its market capitalization has fallen far below its peak, the company is currently valued at more than \$3.6 billion.

14. After making a fortune in the initial public offering of MicroStrategy’s stock in 1998, Defendant Saylor relocated his personal residence to the District’s Georgetown neighborhood and established the District as his domicile. By 2005, Defendant Saylor moved into

and permanently occupied a penthouse apartment located on the Georgetown waterfront at 3030 K Street NW.

15. Between 2006 and 2008, Defendant Saylor spent millions of dollars purchasing three luxury condominium units in the same building at 3030 K Street NW, with the purpose of combining them into a 7,000 square foot residence overlooking the Potomac River. Saylor first purchased the unit he had rented since 2005 and subsequently bought two adjoining penthouse units.

16. Defendant Saylor began extensive renovations in 2011, spending millions of dollars to combine the three 3030 K Street NW units into a single residence he now calls “Trigate.” The budget for custom woodworking alone exceeded \$5 million.

17. While the renovations were ongoing, Defendant Saylor continued to reside in the District, often staying aboard one of his yachts, which he kept tied up on the Georgetown waterfront during the day and anchored in the Potomac River at night. These yachts each possess bedrooms, kitchens, and bathrooms.

18. Saylor also purchased the penthouse unit at the Eden Condominiums, 2360 Champlain St. NW, in the District’s Adams Morgan neighborhood. Saylor lived in this penthouse unit at times while waiting for the Trigate construction to be completed.

19. Defendant Saylor’s contemporaneous social media posts confirm that he lived in the District and considered it home both before and during the renovations to 3030 K Street NW.

20. For example, on March 15, 2012, Defendant Saylor posted to Facebook a photograph taken from his balcony looking out over the Potomac. The caption to the post read, “View from my Georgetown balcony this morning. Now I just need to finish renovating the apartment so I can move back in. For now maybe I pitch a tent outside on the terrace.”



21. On September 9, 2012, Defendant Saylor posted to his Facebook account a photograph of his residence at 3030 K Street NW, apparently taken from the Potomac while aboard one of his yachts. The post pinned Saylor’s location in “Washington, D.C.” and tagged James Augustus Seymour Van Wynen, the architect overseeing the penthouse renovations. The caption read, “Gazing wistfully at my future home while I wait for James to crack the whip on the contractors and herd the cats. I wonder if Tony Stark would be so patient....”



22. On October 10, 2012, Defendant Saylor posted to his Facebook account a photograph of his yacht M/V *Moksha* pinned with the location “Georgetown, Washington, D.C.” and added the caption, “Off to work. It is a perfect October morning on the Potomac, making it hard to leave home.”



23. In 2014, Defendant Saylor completed the renovations combining the penthouse units at 3030 K Street NW and then resumed living in the penthouse at that address. Defendant Saylor maintained this three-unit penthouse as a place of abode at 3030 K Street NW in each taxable year from 2014 through the present.

24. Despite being a District statutory resident and domiciliary, not once during the period from 2005 through 2021 did Defendant Saylor file an income tax return with, or pay any income taxes to, the District's Office of Tax and Revenue. Instead, Defendant Saylor fraudulently purported to be a resident of either Virginia or Florida, jurisdictions that have materially lower income tax rates.

B. Saylor Avoided Paying Any State Income Tax By Masquerading as a Florida Resident.

25. From 2005, Defendant Saylor maintained his domicile at 3030 K Street NW while purporting to be a resident of Virginia. However, in 2012, he embarked on a scheme to fraudulently misrepresent himself to be a resident of Florida—a jurisdiction without any personal income tax.

26. First, Defendant Saylor purchased a house in Miami Beach, Florida.

27. Saylor also obtained a Florida driver's license and registered to vote in Florida. However, Saylor's conduct demonstrated that these administrative actions were pretense and that he never intended to abandon the District as his domicile.

28. For example, Defendant Saylor has only voted in Florida elections via absentee ballots, each time having the ballot mailed either to MicroStrategy's corporate headquarters in Tysons Corner, Virginia, or, on information and belief, to the District.

29. Moreover, Defendant Saylor continued to reside in the District, maintaining a place of abode at 3030 K Street NW for at least 183 days in subsequent taxable years.

30. Since at least 2012, Saylor has bragged to his confidants about his successful plan to create the illusion of residing in Florida in order to evade the District's personal income taxes.

C. Defendant MicroStrategy Conspired with Saylor to Avoid His Obligation to Pay District Income Taxes.

31. Executives at Defendant MicroStrategy were aware that Saylor's claims to be a Florida resident were false and that he was instead a resident of the District of Columbia.

32. Beyond Saylor's regular and open discussion of the fact that he lived in the District of Columbia, MicroStrategy was aware that Saylor lived in the District more than half of the year because it had access to multiple streams of real-time information about Saylor's whereabouts. At all times that Saylor was CEO, MicroStrategy provided company-funded transportation services

for Saylor, including flights and personal drivers. A MicroStrategy-funded private driver transported Saylor between MicroStrategy's office and 3030 K Street NW. MicroStrategy maintained records of Saylor's physical location and of his travel and related expenses. The company also paid for Saylor's security detail, which traveled with him and was present with him at Trigate.

33. In or about 2013, Defendant Saylor asked Defendant MicroStrategy to begin reporting his residency to the Internal Revenue Service on form W-2s, 1099s, and other tax forms using the address of his house in Florida rather than 3030 K Street NW, where he actually lived.

34. Concerned about MicroStrategy's involvement in Defendant Saylor's fraudulent scheme to avoid District taxes, in or about 2014, MicroStrategy's then-Chief Financial Officer undertook a count of the number of days that Defendant Saylor spent in Florida as compared to the District and found that because Saylor spent the majority of each year in the District, MicroStrategy could not justify misreporting Saylor's residency to federal tax officials.

35. Sometime thereafter in 2014, the MicroStrategy CFO, brought the issue of Saylor's fraudulent evasion of District taxes to Saylor as a potential source of liability for the company. To assuage the MicroStrategy CFO's concerns and in an attempt to reduce the likelihood that tax authorities would discover Saylor's fraudulent scheme to avoid District taxes, Defendant Saylor formed an agreement with the MicroStrategy CFO to reduce the salary MicroStrategy would pay to Saylor to a nominal \$1.00.

36. Despite this nominal reduction in salary, Saylor's compensation from MicroStrategy remained considerably higher as a result of the high cash value of fringe benefits that the company continued to provide to Saylor including the use of the company plane, as well as gross-ups to offset federal taxes on these benefits.

37. With this arrangement in place, Defendant MicroStrategy, acting through its CFO, entered an agreement to aid Defendant Saylor's fraudulent avoidance of his obligation to pay District taxes by cloaking his perpetual nonpayment of District income taxes, thereby helping to avoid detection by District taxing authorities.

38. In furtherance of this unlawful agreement, Defendant MicroStrategy committed overt acts, including the following: (a) the company reported to the Internal Revenue Service on form W-2s for taxable years 2014 through 2021 that Defendant Saylor's address was that of his house in Florida rather than his true place of abode and domicile at 3030 K Street NW in the District; and (b) the company failed to withhold District income tax from the amounts it paid to Saylor and failed to pay employer-side taxes to the District during taxable years 2014 through 2021.

39. This was no mere clerical error. Defendant MicroStrategy knowingly reported false information on federal tax forms and failed to withhold District taxes in furtherance of an unlawful agreement to assist its then-Chief Executive Officer, Defendant Saylor, in his fraudulent scheme to avoid his obligation to pay District income taxes, all for Saylor's personal benefit. In addition to the company's CFO, the Chairs of the Audit and Compensation Committees of MicroStrategy's Board of Directors were also aware of Defendant Saylor's scheme to falsely claim to be a resident of Florida and Defendant MicroStrategy's role in actively assisting Saylor to avoid his obligation to pay taxes owed to the District.

D. Defendants' Scheme Deprived the District of Tens of Millions of Dollars in Tax Revenue.

40. From 2005 to present, Defendant Saylor has earned more than \$1 million per year in income, business revenue, and capital gains.

41. For example, MicroStrategy's public filings show that in 2012, Saylor had income from salary and stock sales that were in excess of \$50 million.

42. On information and belief, from 2005 to the present, Saylor has avoided more than \$25 million in District taxes owed.

Count I: Violation of the False Claims Act

43. The District re-alleges the foregoing paragraphs of this Complaint as if fully set forth herein.

44. The District of Columbia's False Claims Act imposes liability of treble damages, costs, and civil penalties on any person who:

(6) . . . knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District.

D.C. Code § 2-381.02(a).

45. Defendant Saylor's taxable income exceeded \$1 million in each taxable year for which he should have filed and paid taxes on the tax filing deadlines in 2015, 2016, 2017, 2018, 2019, 2020, and 2021.

46. The total amount of taxes Defendant Saylor failed to pay to the District between January 1, 2015, and the present, exceeds \$350,000.

47. At all times relevant to the facts alleged in this Complaint, Defendant Saylor knew that living in the District would give rise to an obligation to pay District income taxes.

48. By failing to file and pay the income taxes he owed to the District for taxable year 2014 (due on April 15, 2015) and for each of the following tax years, Defendant Saylor violated the False Claims Act by knowingly and improperly avoiding an obligation to pay or transmit money to the District in violation of D.C. Code § 2-381.02(a)(6).

Count II: Conspiracy to Violate the False Claims Act

49. The District re-alleges the foregoing paragraphs of this Complaint as if fully set forth herein.

50. The District of Columbia's False Claims Act imposes liability of treble damages, costs, and civil penalties on any person who, in violation of D.C. Code § 2-381.02(a)(7), conspires to violate D.C. Code § 2-381.02(a)(6).

51. Defendants MicroStrategy and Saylor conspired to violate D.C. Code § 2-381.02(a)(6). Specifically, Defendants entered into an agreement with the intent of assisting Defendant Saylor in avoiding his personal obligation to pay income taxes to the District of Columbia by aiding Defendant Saylor in avoiding detection by District taxing authorities.

52. In furtherance of Defendants' agreement and conspiracy, MicroStrategy committed the overt act of filing incorrect information on Internal Revenue Service form W-2s stating that Defendant Saylor's address was in Florida, assisting Defendant Saylor in avoiding detection by District taxing authorities.

53. In furtherance of Defendants' agreement and conspiracy, MicroStrategy committed the overt act of failing to withhold District income taxes from compensation paid to Defendant Saylor, assisting Defendant Saylor in avoiding detection by District taxing authorities.

54. The objective of Defendants unlawful agreement was criminal in nature, given that any willful attempt to evade or defeat District tax exceeding \$10,000 is a felony pursuant to D.C. Code § 47-4101(a).

Count III: Failure to Pay Taxes Due

55. The District re-alleges the foregoing paragraphs of this Complaint as if fully set forth herein.

56. Under D.C. Code § 47-1806.01, *et seq.*, all District residents must file income tax returns and pay income taxes according to the rates and requirements set forth in D.C. Code § 47-1806.03, *et seq.*

57. Under the District's tax laws, a person is a District resident if they are domiciled in the District at any time during the taxable year or if they otherwise qualify as a statutory resident pursuant to D.C. Code § 47-1801.04(42).

58. A person is classified as a domiciliary if they establish a physical presence in the District with an intent to remain for an indefinite period of time.

59. A person is classified as a statutory resident if they maintain a place of abode within the District for at least 183 days during the taxable year. D.C. Code § 47-1801.04(42).

60. A District resident with an obligation to pay income tax for a given taxable year is required to file an income tax return with the District on or before April 15th of the following calendar year. D.C. Code § 47-1805.03.

61. Defendant Saylor has been domiciled in the District, or a statutory resident of the District, or both, in each taxable year from 2005 through the present. During this entire period, Saylor failed to file District income tax returns and failed to pay taxes to the District in violation of D.C. Code § 47-1806.03.

Count IV: Late Filing and Tax Penalties

62. The District re-alleges the foregoing paragraphs of this Complaint as if fully set forth herein.

63. From 2005 through the present, Defendant Saylor failed to make reasonable attempts to comply with the District's tax laws. By failing to file and pay income taxes, Defendant Saylor has failed to file a required return and has failed to pay an amount that was required to be

shown on a tax return but was not shown. D.C. Code § 47-4213(a).

64. Defendant Saylor's failure to file and pay taxes due has been attributable either to negligence, as defined by D.C. Code § 47-4211(a), or to fraud, as defined by D.C. Code § 47-4212(d), depending on whether fraud "is indicated" within the meaning of D.C. Code § 47-4212(d).

Prayer for Relief

WHEREFORE, the District of Columbia respectfully requests this Court enter a judgment in its favor and grant relief against Defendants as follows:

(a) Enter judgment for the District and against Defendants in amounts equal to Defendant Saylor's unpaid income tax liability to the District, plus (i) the amount to be added based on Defendant Saylor's failure to file a return on the date prescribed pursuant to D.C. Code § 47-4213, (ii) the amount to be added pursuant to D.C. Code §§ 47-4211 and 47-4212 based on Defendant's negligence or fraud, and (iii) interest on Defendant's underpayments pursuant to D.C. Code § 47-4201;

(b) Award treble damages and civil penalties under D.C. Code § 2-381.02 against Defendants;

(c) Award all reasonable expenses, fees, and costs associated with the prosecution of this action pursuant to D.C. Code § 2-381.03(f)(1)(C); and

(d) Grant such further relief as the Court deems just and proper.

Jury Demand

The District of Columbia demands a trial by jury by the maximum number of jurors permitted by law.

Dated: August 22, 2022

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division

/s/ James Graham Lake
JAMES GRAHAM LAKE, Bar #1028853
Chief, Workers' Rights and Antifraud Section
Public Advocacy Division

/s/ Jason Jones
JASON JONES, Ohio Bar #0095384¹
CHARLES SINKS, D.C. Bar #888273315
JESSICA MICCIOLO, D.C. Bar #1049090
SARAH LEVINE, New Jersey Bar #353062020²
Assistant Attorneys General
Public Advocacy Division
Office of the Attorney General
400 6th Street N.W., 10th Floor
Washington, D.C. 20001
(202) 735-7494 (phone)
jason.jones@dc.gov

Attorneys for the District of Columbia

¹ Admitted to practice only in Ohio. Practicing in the District of Columbia under the direct supervision of James Graham Lake, a member of the D.C. Bar, pursuant to D.C. Court of Appeals Rule 49(c)(4).

² Admitted to practice only in New Jersey. Practicing in the District of Columbia under the direct supervision of James Graham Lake, a member of the D.C. Bar, pursuant to D.C. Court of Appeals Rule 49(c)(4).