IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 1:11-CR-95
	)	
JOSEF DÖRIG,	)	
	)	
Defendant.	)	

STATEMENT OF FACTS

The parties stipulate that the allegations in Count One of the Superseding Indictment and the following facts are true and correct, and that had the matter gone to trial the United States would have proven them beyond a reasonable doubt.

INTRODUCTION

1. Defendant Josef Dörig (hereinafter "Dörig"), age 72, is a resident and national of Switzerland and a citizen of Switzerland and Italy.

2. Beginning in or around 1996 and continuing through in or about July 21, 2011, within the Eastern District of Virginia and elsewhere, Dörig did unlawfully, knowingly, and intentionally combine, conspire, confederate, and agree with other persons known and unknown to the United States to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service ("IRS") of the Treasury Department in the ascertainment, computation, assessment, and collection of revenue: to wit: U.S. income taxes, in violation of Title 18, United States Code, Section 371.

3. From in or around 1961 through in or around 1997, International Bank, or a wholly owned subsidiary of International Bank, employed Dörig. Dörig began his employment with International Bank after completing an apprenticeship with a local bank at age 19. He had a high school education at the time. From in or around 1964 through in or around 1972, Dörig worked in Milan, Italy, for a subsidiary of International Bank.

4. From in or around 1973 through in or around 1997, Dörig worked for one or more wholly owned subsidiaries of International Bank ("Subsidiary") that served as trust companies, providing fiduciary services to clients. At various times, Subsidiary also provided asset management services. In or around 1997, Subsidiary spun off the asset management services to a separate entity that became a securities dealer.

5. As part of its trust company function, Subsidiary formed, managed and maintained nominee tax haven entities, or structures, for its clients and clients of International Bank and its wholly owned subsidiaries. The clients formally held their accounts at International Bank or its wholly owned subsidiaries in the names of these structures. The structures formed, maintained and managed by Subsidiary included but were not limited to foundations, trusts and companies.

6. Once Subsidiary formed a structure, it held a "mandate" for that structure. That is, employees of Subsidiary acted as nominee directors or trustees, depending on the form of the structure. These nominees were empowered to open and close financial accounts at International Bank and/or Subsidiary and to issue instructions for the management of the accounts. Most of these accounts were opened at International Bank.

7. From in or around 1992 through in or around 1997, Dörig served as the co-manager of the trust department of the Zurich office for Subsidiary. During this period, Dörig focused on the formation, management and maintenance of structures beneficially owned and/or controlled by non-U.S. persons.

8. The clients of Subsidiary utilized the structures for various legitimate and illegitimate purposes. However, it was Dörig's understanding that the clients' primary purpose for the structures was to evade their income taxes by concealing their assets and income in financial accounts held in the names of those structures at International Bank and its wholly owned subsidiaries.

9. In or around 1995, the Internal Revenue Service began an initiative to crack down on the use of offshore trusts and corporations by U.S. persons to evade their income taxes.

10. In or around 1996, Dörig advised Executive 1, the Chief Executive Officer of Subsidiary, that he was contemplating retiring. In response, Executive 1 informed Dörig that Subsidiary was considering spinning off certain parts of the trust company. Executive 1 suggested that, if Dörig chose to retire, he should entertain the possibility of working for one of the various spin offs of International Bank.

11. In or around 1996, Executive 1 and/or other managers of Subsidiary approached Dörig with a business proposal. They proposed that Dörig form his own company that would specialize in the formation, management and maintenance of structures. In turn, Subsidiary would transfer to the new company the mandates for all structures utilized by U.S. persons with undeclared accounts at International Bank or its wholly owned subsidiaries. Executive 1 and/or

other managers of Subsidiary advised Dörig to contact a prominent attorney in Geneva ("Swiss Lawyer 1") with whom they had previously discussed the spin off proposal.

12. On or about December 17, 1996, Subsidiary distributed an internal memorandum to its executives that explicitly discussed Dörig's new role in managing structures for U.S. persons with undeclared accounts at International Bank or its wholly owned subsidiaries. The memorandum stated that for new U.S. clients that were "non disclosed in the U.S.", Subsidiary would "[i]ntroduce the client to Mr. J. Dörig / spin-off company." As to existing clients, those structures would "be transferred to the spin-off company during the first half year 1997" when the beneficial owner was "an US-resident and prove of US tax reporting is not available."

13. On or about March 20, 1997, Subsidiary distributed a second internal memorandum to its executives that identified the structures to be transferred to a new company run by Dörig and set a timetable for the transfer. The memorandum stated that Subsidiary would "accept/maintain all mandates from US persons . . . where there is adequate proof that disclosure and reporting duties to US tax authorities are fulfilled." The memorandum directed that all new mandates for structures linked to undeclared accounts "must be referred to the spinoff company – Mr. J. Dörig." The memorandum instructed that all existing mandates for structures linked to undeclared accounts "have to be transferred [by] June 30, 1997 to the spinoff company – Mr. J. Dörig."

14. In or about April 1997, Dörig and Swiss Lawyer 1 formed Dörig Partner AG to form, manage and maintain structures for U.S. persons with undeclared accounts at International Bank or its wholly owned subsidiaries. Dörig owned 45%, Swiss Lawyer 1 owned 35%, and the employees of Dörig Partner owned the remaining 20%.

15. On or about August 11, 1997, Executive 1 sent a memorandum to Dörig and Swiss Lawyer 1 that stated that Subsidiary would like to transfer certain mandates "within the 'spin-off' concept." In the memorandum, Executive 1 stated that the clients must agree to the transfer. Executive 1 promised "the full support of our client relation officers" in securing the client's permission. Executive 1 noted that the objective of the transfer of the mandates was to "protect [Subsidiary] and its past or present employees to the utmost extent possible."

16. From on or about January 1, 1997 through on or about September 1, 1997, Dörig remained an employee of Subsidiary and received his full salary while simultaneously developing Dörig Partner AG.

17. On or about December 20, 1997, Subsidiary and Dörig Partner entered into a contract whereby Subsidiary would transfer to Dörig Partner the mandates for over 100 legal entities linked to undeclared accounts held by U.S. persons at International Bank or its wholly owned subsidiaries. As part of the contract, Dörig Partner agreed that for existing legal entities it would make its best efforts that the assets in the financial account linked to the legal entity would remain with International Bank or its wholly owned subsidiaries. As to new referrals received from International Bank or its wholly owned subsidiaries, Dörig Partner AG agreed that it would make best efforts to ensure that once a legal entity was created, an account would be opened at International Bank or its wholly owned subsidiaries in preference to any other institution.

18. Under traditional fiduciary law, fiduciaries owe a duty of loyalty. By requiring Dörig Partner to prefer International Bank and its wholly owned subsidiaries to all other

institutions, Subsidiary recognized that the structures to be created by Dörig were not intended to be operated as true trusts and/or corporations.

19. The physical location of the offices of Dörig Partner AG exemplified the symbiotic relationship between Dörig Partner and International Bank. Dörig Partner sublet space in the same building where the asset management arm of Subsidiary had its headquarters in Zurich, Switzerland. As Dörig Partner AG and Subsidiary were located in the same building, U.S. persons with undeclared accounts could meet with Dörig and their relationship managers at Subsidiary in one visit.

20. The management of Subsidiary closely monitored the development of Dörig Partner. They did so in order to ensure its success, but also to create the appearance that Dörig Partner operated independently of International Bank. In or around 1997, Executive 1 reviewed Dörig Partner's business brochure and directed Dörig to have the brochure state that Dörig created his own new company.

21. Based upon his knowledge of the hierarchies of both Subsidiary and International Bank, Dörig believes that the CEO of Subsidiary would only have agreed to the transfer of the non-compliant and undeclared structured accounts of U.S. customers through the direct instruction of the management of International Bank. In addition, several individuals who were members of the board of directors of Subsidiary, simultaneously served in executive positions at International Bank, further indicating that the management of International Bank were aware of subsidiary's efforts to conceal U.S. customer accounts. Dörig was also aware that internal computer systems at both Subsidiary and International Bank stated that Dörig was one of the

preferred partners who could receive the undeclared and non-tax compliant accounts of U.S. customers.

22. Dörig additionally believed that the Internal Audit Department of International Bank would have been responsible for insuring that the qualified mandates were spun out of Subsidiary as described above.

23. International Bank promoted Dörig Partner as a preferred provider of structures. The phone list used in the New York Representative Office of International Bank identified Dörig Partner as an external trust expert.

24. After the initiation of the Department of Justice's investigation, Josef Dörig was shown a document from the files of International Bank entitled the "Foundation Fact Sheet" that was used to promote the use of Liechtenstein foundations for tax evasion purpose. The three-page document outlined the relationship between International Bank, Dörig Partner and the structures created by Dörig Partner to hold nominal title to an undeclared account at International Bank. The document noted that the "Founder," or owner of the assets, would set up a foundation through Dörig Partner. In turn, the foundation would own an offshore company. The account at International Bank would be held in the name of that offshore company. The Fact Sheet stressed that the goal of such an arrangement would be to conceal the "Founder's" ownership of the account. It stated "[t]he foundation is also a safety layer, the beneficial owner is not directly named as account holder." The Fact Sheet included a pictorial that showed that the account and offshore company would be "in the picture" but the Founder would be "out of surveillance." To emphasize that Swiss bank secrecy would cloak the ownership of the assets in the account, the Fact Sheet stated: "Dörig Partner AG acts under Swiss law" and "Swiss

Bank secrecy also applies for the foundation." The Fact Sheet vouched for the integrity of Dörig Partner by calling that company "our Fiduciary" and noting that it was a "longstanding and trustworthy partner of [International Bank]." In order to assuage any concern that a client would lose control of assets once placed in an account in the name of a structure, the Fact Sheet guaranteed the clients "you can request a cash collection." As an added layer of safety, the Fact Sheet ensured clients that International Bank would control the actions of Dörig Partner stating that the fiduciary "can not act without [International Bank's] approval." The statements made in the Foundation Fact Sheet were similar to those made by International Bank RM's when they pitched the use of structures to U.S. clients with numbered or named accounts.

25. From approximately 1997 through approximately 2000, Dörig traveled to and within the United States, including the Eastern District of Virginia, to meet with the U.S. persons/beneficiaries who held undeclared accounts in the names of structures that Subsidiary transferred to Dörig Partner AG. The majority of Dörig's new clients instructed him to minimize communications with them by not communicating by means of the telephone, email or written correspondence, so as to avoid their detection by the United States government.

26. From approximately in or around 1997 through in or around 2011, Dörig aided and assisted U.S. taxpayers in evading their income taxes by administering mandates for structures that the taxpayers used to conceal their assets and income from the IRS. In his role as fiduciary administering the structure, it was Dörig's role to create a paper trail that made it appear that the structure operated independently and that the U.S. person who owned the assets in the undeclared account linked to the structure had no control over the assets. In truth, Dörig regularly acted at the direction of the U.S. person who owned the assets in the account. For the

years that Dörig Partner held the mandate for structures owned and controlled by U.S. persons, 1997 through 2011, Dörig could recall only one instance where he declined to execute the instructions given to him by the U.S. person who controlled the structure that he administered.

27. As part of the scheme to conceal assets and income from the IRS, from 1997 through 2009, relationship managers at International Bank and its wholly owned subsidiaries repeatedly referred U.S. persons with named or numbered accounts to Dörig Partner for the formation, management and maintenance of legal entities.

28. In or around 2000, Dörig learned about the Qualified Intermediary Agreement ("QI") between International Bank and the U.S. Internal Revenue Service ("IRS"). As a result of the QI, International Bank notified Dörig Partner, AG of a change in the U.S. regulations regarding the withholding of U.S. taxes in the context of the sale of securities. As a result of that rule change, International Bank requested that Dörig Partner, AG complete Forms W-8 BEN for all structures that held accounts where the beneficial owner was a U.S. taxpayer.

29. Although Dörig completed the W-8 BEN Forms in the name of a foreign entity or structure, Dörig understood that the ultimate beneficial owner was a non-tax compliant U.S. person whose assets were managed by an employee of International Bank or elsewhere.

30. While International Bank was requesting Dörig to complete the W-8 BEN Forms in the manner described above, Dörig knew that International Bank held, in its possession, forms that documented that the non-tax compliant U.S. taxpayer was the beneficial owner of the foreign entity or structure and the undeclared assets held in its name.

31. In order to conceal the U.S person's control of the assets in the undeclared accounts at International Bank and its wholly owned subsidiaries, the ownership of such

accounts would be disguised by layering legal entities. The undeclared account would be held in the name of an offshore corporation. In turn, a Liechtenstein Foundation would be listed as the owner of the offshore company. Despite this obfuscation, International Bank recorded the U.S. person as the beneficial owner as per Form A.

32. From in or around 1997 to in or around 2006, Dörig traveled to the United States with relationship managers from International Bank and its wholly owned subsidiaries, including Markus Walder, Marco Parenti-Adami and Michele Bergantino, to meet with U.S. persons with undeclared numbered or named accounts at International Bank who the relationship managers identified as candidates for the use of legal entities

33. For example, from in or around November 2000 through in or around December 2008, Dörig Partner held the mandate for a structure, Cupids Company SA , that held an undeclared account at International Bank. The beneficial owner of the Cupids account, a U.S. taxpayer, had been the beneficial owner of a numbered account at International Bank in Zurich from in or around 1995 to in or around 2000 (after an introduction by a branch of International Bank in Los Angeles, California). From the opening of the Cupids account through in or around 2005, the beneficial owner directly controlled the investments and issued instructions for the Cupids account, including directing International Bank to make cash available for his withdrawal at International Bank in the Bahamas. On or about March 18, 2005, Michele Bergantino and Dörig met with the beneficial owner of the Cupids account at the Beverly Hills Hotel, in Beverly Hills, California. At that meeting, the three executed a document, which was maintained in the files of International Bank. That document stated that the beneficial owner was very concerned that he had to submit a tax return that stated that he had

no foreign financial accounts and no assets held abroad. The document stated that the beneficial owner cancel his power of attorney over the undeclared account, to remove him as beneficial owner of the Cupids account, and to substitute his wife and child as the beneficial owners. In fact, beneficial ownership of the Cupids account did not change.

34. As another example, in or around November 2006, Dörig and Michele Bergantino traveled together to Los Angles and Newport Beach, California as well as Miami, Florida, to meet with U.S. taxpayers with undeclared numbered or named accounts at International Bank to pitch them on creating structures. During that trip, two of Michele Bergantino's clients agreed to create Liechtenstein foundations.

35. From in or around 2000 through in or around 2007, Dörig traveled to the United States to visit his existing clients and, on occasion, was introduced by employees of International Bank to other potential Dörig Partner clients. The relationship managers who managed named or numbered accounts had identified their clients as candidates for legal entities. Prior to the relationship managers introducing the clients to Dörig, these clients had already begun to evade their income U.S. tax liabilities by opening certain types of accounts with International Bank.

36. On several occasions, Dörig met with Roger Schaerer, the Representative Officer in International Bank's New York Representative Office. Dörig knew that at least one U.S. client for whom he had a mandate to manage a structure linked to an undeclared conducted banking through Schaerer

37. As part of the scheme to conceal assets and income, the beneficial owners of the assets in the undeclared accounts held in the names of structures at International Bank or its wholly owned subsidiaries were supposed to provide all instructions for the account to Dörig.

In turn, Dörig would communicate those instructions to the relationship manager at International Bank and its wholly owned subsidiaries. In so doing, it would appear in the bank's records that Dörig, and not the U.S. person, had control over the assets in the account held in the name of the structure.

38. In practice, many of the U.S. persons with undeclared accounts held in the names of structures at International Bank or its wholly owned subsidiaries continued to exercise direct control of the undeclared accounts. As most of the U.S. beneficial owners of undeclared accounts held in the names of entities either had, or continued to have, numbered or named accounts, they were in the practice of directly instructing the relationship manager regarding their undeclared accounts.

39. For example, a U.S. person beneficially owned an undeclared account at International Bank held in the name of the Pokono Foundation, a Liechtenstein foundation. The account had been opened at International Bank in or around 1985. A predecessor of Subsidiary formed the structure in that same year and held the mandate until or around 1997. At that time, Subsidiary transferred the mandate to manage the structure to Dörig Partner as part of the spin-off agreement. After Dörig Partner assumed ostensible control of the structure, the U.S. beneficial owner routinely met in Zurich with the relationship manager at International Bank without advising Dörig. At those meetings, the relationship manager provided the U.S. person with large quantities in cash as withdrawals from the undeclared account, including $30,000 on or about October 15, 2004; $11,000 on or about November 14, 2006; $50,000 on or about November 20, 2007; and $55,000 on or about November 25, 2008. In each instance, the U.S. person signed a makeshift receipt documenting the withdrawal. Only after the transaction had

been completed would the relationship manager fax the bank documents evidencing the withdrawals to Dörig Partner and direct the company to sign an "Acknowledgment" that the cash had been provided to the U.S. person. The account file maintained by International Bank did not include either the receipt or the acknowledgment thus concealing the U.S. person's direct control of the undeclared account.

40. International Bank had an incentive to refer clients with undeclared accounts to Dörig Partner. On or about July 6, 2005, Markus Walder and Susanne Rüegg-Meier, on behalf of International Bank, entered into a referral contract with Dörig Partner. The agreement required Dörig Partner to pay International Bank a fee of CHF 6,000 for referral. By letter dated October 27, 2008, both Markus Walder and Susanne Rüegg-Meier formally terminated the contract discussed above between Dörig Partner and International Bank.

41. In or around 2008, Markus Walder informed Dörig that International Bank would no longer maintain undeclared accounts for the structures for which Dörig Partner held a mandate. He informed Dörig that the undeclared accounts owned by U.S. persons and held in the names of strucures had to be closed by the year-end.

42. In or around 2008, Dörig approached a Swiss asset manager (Swiss Asset Manager #1) about his predicament. Swiss Asset Manager #1 was an asset manager at a financial services firm ("Swiss Financial Service Firm") in Zurich, Switzerland that provided, among other things, asset management services. Dörig owned 5% of Swiss Financial Service Firm. Dörig had previously contracted with Swiss Financial Service Firm to manage the assets in financial accounts held in the names of structures for which Dörig Partner held a mandate. These structures were not owned or controlled by U.S. persons.

43. Swiss Asset Manager #1 informed Dörig that Swiss Financial Service Firm owned 25% of a private bank that had its headquarters and operations in Gibraltar ("Gibraltar Bank"), a British overseas territory. As Swiss Asset Manager #1 explained it, under Gibraltar law, Swiss Financial Service Firm maintained a master account in its own name at Gibraltar Bank. Swiss Financial Service Firm could open sub-accounts for its clients at Gibraltar Bank. Swiss Financial Services Firm would provide Gibraltar bank only with the number associated with each sub-account. Swiss Financial Services Firm would not inform Gibraltar Bank of any information regarding the beneficial owner of the assets in the sub-account.

44. Over the course of several months in 2008 and 2009, Dörig caused to be transferred approximately 55 undeclared accounts with approximately $130 million in assets from International Bank, one of its wholly owned subsidiaries, or another Swiss bank, accounts opened under the master account of Swiss Financial Services Firm at Gibraltar Bank. Each sub-account was opened for a U.S. person with an undeclared account.

45. Swiss Financial Services Firm was aware that these sub-accounts had been opened for U.S. persons and that they were undeclared. The assets in the undeclared accounts that Dörig transferred from International Bank and its wholly owned subsidiaries to Gibraltar Bank made up approximately 13% a number of Gibraltar Bank's assets under management.

46. In or around 2009, a holding company that owned a percentage of Swiss Financial Services Firm placed Dörig on the Board of Directors of Gibraltar Bank.

47. In or around March 2011, Gibraltar Bank first inquired as to the ownership of the assets in the sub-accounts opened by Swiss Financial Services Firm. On or about April 1, 2011,

Dörig informed Gibraltar Bank that U.S. persons attempting to enter the IRS's Voluntary Disclosure Program beneficially owned the assets in the sub-accounts.

48. Starting in 2008, Dörig advised his existing clients and all of the previous clients that he could locate that they should disclose their assets to the IRS. Dörig urged his clients to contact Swiss-based U.S. counsel and advisors to make a voluntary disclosure. Dörig further made efforts to convince clients totaling over $130 million in assets to participate in the voluntary disclosure process or otherwise disclose.

49. The acts taken by the defendant, Josef Dörig, in furtherance of the offense charged in this case, including the acts described above, were done willfully and knowingly with the specific intent to violate United States law. The defendant acknowledges that the foregoing statement of facts does not describe all of the defendant's conduct relating to the offense charged in the superseding indictment nor does it identify all of the persons with whom the defendant may have engaged in illegal activities. The defendant further acknowledges that he is

obligated under his plea agreement to provide additional information about this case beyond that which is described in this statement of facts.

Respectfully submitted,

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After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Joseph Dörig and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

29 April 2014

Josef Dörig
Defendant

I am Mr. Dörig's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

29 April 2014

Robert W. Henoch,
Counsel for the Defendant