

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-60166-CR-COOKE

UNITED STATES OF AMERICA

vs.

STEVEN MICHAEL RUBINSTEIN,

Defendant.

STATEMENT OF FACTS

The United States Attorneys Office for the Southern District of Florida, the United States Department of Justice, Tax Division, and the defendant, Steven Michael Rubinstein, stipulate to and agree not to contest the following facts, and stipulate that such facts, in accordance with Rule 11(b)(3) of the Federal Rules of Criminal Procedure, provide a sufficient factual basis for the plea of guilty in this case:

**OBLIGATION TO REPORT WORLDWIDE INCOME AND FOREIGN BANK
ACCOUNTS**

United States citizens who have income in excess of a certain amount are obligated to file a federal income tax return. On said return, United States citizens are obligated to report their worldwide income. Additionally, United States citizens who have an interest in or a signature or other authority over a financial account in a foreign country with assets in excess of \$10,000 are required to disclose the existence of such account on Schedule B, Part III of their individual income tax return.

INVESTIGATIVE DETAILS

According to records obtained from UBS AG in Switzerland, there were UBS accounts in the name of Hybridge International, Ltd., (“Hybridge”), a British Virgin Island corporation that was incorporated on September 5, 2001 (“the UBS Swiss bank accounts”). According to an internal UBS Document entitled “Form A, Verification of the Beneficial Owner’s Identity”, dated October 8, 2001, the defendant, listed as a resident of Boca Raton, Florida is a beneficial owner of the UBS account in the name of Hybridge.

From 2001 through 2007, the defendant, while in the Southern District of Florida, telephonically communicated with UBS bankers in Switzerland to direct, among other things, the purchase and sale of United States securities, the conversion of investments from United States dollars to Great Britain Pounds, and the deposit and transfer of funds into and out of the accounts. From 2001 through 2007, the defendant, while in the Southern District of Florida, corresponded via email with UBS bankers in Switzerland to authorize transactions with respect to the UBS Swiss bank accounts. The defendant discussed with UBS bankers, among other things, the depositing of assets at UBS, the purchase and sale of various investments, and the need to withdraw money from the UBS Swiss bank accounts to pay for the construction of his personal residence.

From 2001 through 2007, the defendant personally met with UBS bankers to discuss the UBS Swiss bank accounts. These meetings took place at various locations throughout South Florida. During these meetings, the defendant discussed with UBS bankers, among other things, depositing assets with UBS, the purchase and sale of various investments, and withdrawing money from the UBS Swiss bank accounts to pay for the construction of his personal residence in Boca Raton, Florida, in Palm Beach County within the Southern District of Florida.

From 2005 through 2007, the defendant requested the transfer of more than \$3 million from the UBS Swiss bank accounts to a bank account at HSBC in Monaco in the name of Duroc Limited for the purchase of property and construction of the defendant’s personal residence in Boca Raton, Florida. In total, over \$7 million was transferred from a bank account at HSBC in Monaco for the purchase of property and construction of the defendant’s personal residence.

From 2001 through 2007, the defendant utilized the UBS Swiss bank accounts to deposit and sell more than \$2 million in Kruggerand, South African gold coins.

From 2001 through 2007, the defendant purchased or caused to be purchased securities worth more than 4.5 million Swiss Francs through the UBS Swiss bank accounts.

From December 31, 2001 through December 31, 2007, the balance in the UBS Swiss bank accounts was always in excess of \$10,000.

TAX RETURN INFORMATION

For tax years 2001 through 2007, the defendant was required to file a United States Individual Tax Return, Form 1040, that reported his worldwide income and declared the existence of any foreign financial accounts in which he had an interest, or over which he had signature or other authority that contained assets in excess of \$10,000.

The defendant filed United States Individual Tax Returns, Forms 1040, with the Internal Revenue Service for tax years 2001 through 2007. Each year, the defendant willfully failed to report on these tax returns any income earned on the UBS Swiss bank accounts. Additionally, each year, the defendant willfully failed to disclose that he had an interest in or a signature or other authority over a financial account in a foreign country.

Specifically, on April 15, 2005, the defendant filed a U.S. Individual Income Tax Return Form 1040 for tax year 2004. The return bears the signature of the defendant and was signed under the penalties of perjury with the declaration that the return and accompanying schedules and statements were examined by the defendant and that to the best of the defendant's knowledge and belief, the return and accompanying schedules were true, correct, and complete. The 2004 U.S. Individual Income Tax Return was made, subscribed, prepared, and signed within the Southern District of Florida. The defendant willfully failed to tell the accountant who prepared his 2004 tax return about the existence of the UBS Swiss bank accounts.

On Schedule B, Part III of the 2004 tax return, the defendant failed to report that he had an interest in or a signature authority over a financial account at UBS in Switzerland and he failed to report income earned on the UBS Swiss bank accounts.

When the defendant filed his U.S. Individual Income Tax Return Form 1040 for tax years 2001 through 2007, he knew of his obligation to report the income earned on the UBS Swiss bank accounts on line 22 of said tax return and he knew that he should have disclosed the existence of the UBS Swiss bank accounts on Schedule B, Part III. The defendant intentionally and willfully failed to report the income earned on the UBS Swiss bank accounts and to disclose the existence of the UBS Swiss bank accounts on Schedule B, Part III of each year's United States Individual Tax Return.

FAILURE TO FILE FBARS

Each United States person who has a financial interest in or signature or other authority over any foreign financial accounts, including bank, securities, or other types of financial accounts, in a foreign country, if the aggregate value of these financial accounts exceeds \$10,000 at any time during the calendar year, must report that relationship each calendar year by filing a report with the Department of Treasury on or before June 30 of the succeeding year. This disclosure is made on a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1, and more commonly referred to as a FBAR.

For 2001 through 2007, the defendant was required to file a Report of Foreign Bank and Financial Accounts reporting his relationship with the UBS Swiss bank accounts. Each year, the defendant knew of his obligation to report the existence of the UBS Swiss bank accounts on a Report of Foreign Bank and Financial Accounts and he willfully and intentionally failed to do so.

Respectfully submitted,

JEFFREY H. SLOMAN
ACTING UNITED STATES ATTORNEY

By: 

KEVIN DOWNING
SENIOR TRIAL ATTORNEY
MICHAEL P. BEN'ARY
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION

By: 

JEFFREY A. NEIMAN
ASSISTANT UNITED STATES ATTORNEY

By: 

ROBERT PANOFF
ATTORNEY FOR DEFENDANT

By: 

STEVEN MICHAEL RUBINSTEIN
DEFENDANT