



***United States Attorney
Southern District of New York***

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**MANHATTAN U.S. ATTORNEY ANNOUNCES CHARGES AGAINST
FAMILY MEMBER OF FORMER UBS CLIENT FOR CONSPIRING
TO HIDE OVER \$11 MILLION IN SWISS BANK ACCOUNTS**

Defendant Also Smuggled \$450,000 In Cash Into The United States

PREET BHARARA, the United States Attorney for the Southern District of New York, and CHARLES R. PINE, the Special Agent-in-Charge of the New York Field Office of the Internal Revenue Service ("IRS"), announced that SAMUEL PHINEAS UPHAM, a close family member of a former client of the Swiss Bank UBS AG ("UBS"), has been charged with conspiring to defraud the IRS, by, among other things, hiding over \$11 million at UBS and smuggling \$450,000 in cash from UBS's offices in Zurich to the United States. UPHAM is also charged with aiding and abetting the preparation of his close family member's false federal income tax returns that failed to disclose the existence of, and the income earned in, UBS bank accounts. The charges against UPHAM arose out of an ongoing investigation into clients of UBS and other overseas banks who conspired to hide such accounts from the IRS. UPHAM is the ninth individual to be charged in relation to this conduct in the Southern District of New York. UPHAM is scheduled to be arraigned today at 3:00 p.m. before U.S. District Judge SHIRA A. SCHEINDLIN.

According to the Indictment filed in Manhattan federal court and other court documents:

Under federal law, when filing Individual Income Tax Returns, Form 1040, U.S. taxpayers are obligated to report their worldwide income. Additionally, taxpayers who have a financial

interest in, or signature or other authority over, a financial account in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year are required to file a Report of Foreign Bank and Financial Accounts ("FBAR") with the IRS.

For many years, UBS provided private banking services to U.S. taxpayers as part of its "U.S. cross-border banking business," which employed approximately 60 UBS employees based in Switzerland. From at least 2000 to 2008, UBS, through these employees, helped U.S. taxpayers conceal their Swiss-based assets, and the income earned on those assets, from the IRS. UBS and the U.S. taxpayers, assisted by independent Swiss attorneys and financial advisers, hid these assets from the IRS by listing sham offshore companies as the account holders of UBS accounts, when in fact the U.S. taxpayers actually owned and controlled the accounts. In February 2009, UBS entered into a deferred prosecution agreement with the United States, pursuant to which the bank admitted to helping U.S. taxpayers hide accounts from the IRS. As part of this agreement, UBS provided the U.S. Government with the identities of, and account information for, certain U.S. customers of UBS's U.S. cross-border banking business.

In 1993, UPHAM's close family member (identified as "Family Member A" in the Indictment) opened a UBS account under the name of a sham foundation in Liechtenstein. In 2000, Family Member A signed a UBS document instructing UBS that she "would like to avoid disclosure of my identity to the U.S. Internal Revenue Service under the new tax regulations." In 2005, Family Member A, working with an independent Swiss financial adviser, opened a second UBS account, this time in the name of a sham Hong Kong corporation. To conceal her ownership of this second account, Family Member A's financial adviser acted as a nominee director of the corporation, and instructed UBS to send all mail relating to the account to the financial adviser, rather than to her address in Manhattan. By 2007, Family Member A's UBS accounts contained approximately \$11.2 million.

UPHAM personally repatriated funds from Family Member A's UBS bank accounts by traveling from New York to UBS's offices in Zurich, Switzerland to pick up \$450,000 in cash, in two installments, and smuggling that cash into the United States.

In June 2008, UPHAM helped Family Member A move funds from UBS to a Liechtenstein bank that did not have offices in the United States. From June 2008 through March 2009, over \$8.5 million was moved from UBS to the Liechtenstein bank in this manner.

From 2005 to 2007, UPHAM prepared tax returns on behalf of Family Member A, which falsely concealed Family Member A's Swiss accounts and the income derived from them, thereby evading at least approximately \$500,000 in federal income taxes.

* * *

UPHAM was arrested on these charges on November 29, 2010, in San Francisco, California, and was presented on November 30, 2010, in the U.S. District Court for the Northern District of California, where he was released on a \$500,000 personal recognizance bond and ordered to appear in federal court in the Southern District of New York today. UPHAM faces a maximum penalty of five years in prison on the conspiracy charge, and a maximum penalty of three years in prison on each count of aiding and abetting in the preparation of false tax returns.

As part of this investigation, three defendants have pled guilty in the Southern District of New York:

FEDERICO HERNANDEZ, a Manhattan-based financial adviser, was sentenced on September 17, 2010, by the Honorable DENNY CHIN to twelve months in prison and six months of home confinement for hiding \$8.8 million from the IRS by using sham companies to conceal his ownership of secret Swiss bank accounts held at UBS AG. HERNANDEZ was one of seven U.S. taxpayers charged on April 15, 2010, with filing false tax returns and related crimes for hiding Swiss bank accounts from the IRS. HERNANDEZ pled guilty that same day to filing five false tax returns. HERNANDEZ also agreed to pay a civil penalty of \$4.4 million, an amount equal to 50 percent of the highest total value of his unreported foreign accounts as of December 31 for the years in which he failed to file with the IRS a Report of Foreign Bank and Financial Accounts.

JULES ROBBINS, who was also charged on April 15, 2010, was sentenced on September 21, 2010, by the Honorable RICHARD J. HOLWELL to twelve months of probation for filing false tax returns to hide from the IRS a UBS account holding as much as \$42 million. As part of his plea agreement with the Government, ROBBINS paid, prior to sentencing, an FBAR Penalty of \$20.8 million.

SYBIL NANCY UPHAM pled guilty on November 10, 2010, before U.S. Magistrate Judge GABRIEL W. GORENSTEIN to conspiring to defraud the IRS, by, among other things, smuggling large quantities of cash into the United States from Europe, and to three counts of subscribing to false federal income tax returns.

SYBIL NANCY UPHAM, 72, of Manhattan, agreed to pay an FBAR Penalty of over \$5.5 million.

Other defendants charged on April 15, 2010, in the Southern District of New York include:

- KENNETH HELLER, who opened a UBS account in the name of a sham offshore corporation in 2006 and deposited \$26.4 million into the account;
- RICHARD WERDIGER, who opened three separate UBS accounts under the name of sham Liechtenstein and Panama entities, and held over \$7 million at UBS as of 2003;
- ERNEST VOGLIANO, who opened UBS accounts in the name of sham Liechtenstein and Hong Kong corporations, and held \$4.9 million at UBS as of 2000; and
- SHMUEL STERNFELD, who opened a UBS account in the name of a sham Hong Kong corporation, and held \$2.9 million at UBS as of 2005.

Charges against these defendants remain pending.

Mr. BHARARA praised the work of the IRS, and thanked the U.S. Department of Justice's Tax Division and the New York County District Attorney's Office for their significant assistance. He added that the investigation is continuing.

This case is being handled by the Office's Complex Frauds Unit. Assistant U.S. Attorneys E. DANYA PERRY and DAVID B. MASSEY are in charge of the prosecution.

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