



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

LJW:TJS:BDBailey  
5-16-4734  
2014200750

May 21, 2015

Daniel W. Levy  
McKool Smith PC  
One Bryant Park  
New York, New York 10036

Re: Scobag Privatbank AG  
DOJ Swiss Bank Program – Category 2  
Non-Prosecution Agreement

Dear Mr. Levy:

SCOBAG PRIVATBANK AG (“SCOBAG”) submitted a Letter of Intent on December 23, 2013, to participate in Category 2 of the Department of Justice’s Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, as announced on August 29, 2013 (hereafter “Swiss Bank Program”). This Non-Prosecution Agreement (“Agreement”) is entered into based on the representations of SCOBAG in its Letter of Intent and information provided by SCOBAG pursuant to the terms of the Swiss Bank Program. The Swiss Bank Program is incorporated by reference herein in its entirety in this Agreement.<sup>1</sup> Any violation by SCOBAG of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute SCOBAG for any tax-related offenses under Titles 18 or 26, United States Code, or for any monetary transaction offenses under Title 31, United States Code, Sections 5314 and 5322, in connection with undeclared U.S. Related Accounts held by SCOBAG during the Applicable Period (the “conduct”). SCOBAG admits, accepts, and acknowledges responsibility for the conduct set forth in the Statement of Facts attached hereto as Exhibit A and agrees not to make any public statement contradicting the Statement of Facts. This Agreement does not provide any protection against prosecution for any offenses except as set forth above, and applies only to SCOBAG and does not apply to any other entities or to any individuals. SCOBAG expressly understands that the protections provided under this Agreement shall not apply to any acquirer or successor entity unless and until such acquirer or successor formally adopts and executes this Agreement. SCOBAG enters into this Agreement pursuant to the authority granted by its Board of Directors in the form of a Board Resolution (a copy of which is attached hereto as Exhibit B).

<sup>1</sup> Capitalized terms shall have the meaning ascribed to them in the Swiss Bank Program.

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In recognition of the conduct described in this Agreement and in accordance with the terms of the Swiss Bank Program, SCOBAG agrees to pay the sum of \$9,090 as a penalty to the Department of Justice ("the Department"). This shall be paid directly to the United States within seven (7) days of the execution of this Agreement pursuant to payment instructions provided to SCOBAG. This payment is in lieu of restitution, forfeiture, or criminal fine against SCOBAG for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from SCOBAG with respect to the conduct described in this Agreement, unless the Tax Division determines SCOBAG has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. SCOBAG acknowledges that this penalty payment is a final payment and no portion of the payment will be refunded or returned under any circumstance, including a determination by the Tax Division that SCOBAG has violated any provision of this Agreement. SCOBAG agrees that it shall not file any petitions for remission, restoration, or any other assertion of ownership or request for return relating to the penalty amount or the calculation thereof, or file any other action or motion, or make any request or claim whatsoever, seeking to collaterally attack the payment or calculation of the penalty. SCOBAG agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. SCOBAG further agrees that no portion of the penalty that SCOBAG has agreed to pay to the Department under the terms of this Agreement will serve as a basis for SCOBAG to claim, assert, or apply for, either directly or indirectly, any tax deduction, any tax credit, or any other offset against any U.S. federal, state, or local tax or taxable income.

The Department enters into this Agreement based, in part, on the following Swiss Bank Program factors:

(a) SCOBAG's timely, voluntary, and thorough disclosure of its conduct, including:

- how its cross-border business for U.S. Related Accounts was structured, operated, and supervised (including internal reporting and other communications with and among management);
- the name and function of the individuals who structured, operated, or supervised the cross-border business for U.S. Related Accounts during the Applicable Period;
- how SCOBAG attracted and serviced account holders; and
- an in-person presentation and documentation, properly translated, supporting the disclosure of the above information and other information that was requested by the Tax Division;

(b) SCOBAG's cooperation with the Tax Division, including conducting an internal investigation and making presentations to the Tax Division on the status and findings of the internal investigation;

(c) SCOBAG's production of information about its U.S. Related Accounts, including:

- the total number of U.S. Related Accounts and the maximum dollar value, in the aggregate, of the U.S. Related Accounts that (i) existed on August 1, 2008; (ii)

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were opened between August 1, 2008, and February 28, 2009; and (iii) were opened after February 28, 2009;

- the total number of accounts that were closed during the Applicable Period; and
- upon execution of the Agreement, as to each account that was closed during the Applicable Period, (i) the maximum value, in dollars, of each account, during the Applicable Period; (ii) the number of U.S. persons or entities affiliated or potentially affiliated with each account, and further noting the nature of the relationship to the account of each such U.S. person or entity or potential U.S. person or entity (e.g., a financial interest, beneficial interest, ownership, or signature authority, whether directly or indirectly, or other authority); (iii) whether it was held in the name of an individual or an entity; (iv) whether it held U.S. securities at any time during the Applicable Period; (v) the name and function of any relationship manager, client advisor, asset manager, financial advisor, trustee, fiduciary, nominee, attorney, accountant, or other individual or entity functioning in a similar capacity known by SCOBAG to be affiliated with said account at any time during the Applicable Period; and (vi) information concerning the transfer of funds into and out of the account during the Applicable Period, including (a) whether funds were deposited or withdrawn in cash; (b) whether funds were transferred through an intermediary (including but not limited to an asset manager, financial advisor, trustee, fiduciary, nominee, attorney, accountant, or other third party functioning in a similar capacity) and the name and function of any such intermediary; (c) identification of any financial institution and domicile of any financial institution that transferred funds into or received funds from the account; and (d) identification of any country to or from which funds were transferred; and

(d) SCOBAG's retention of a qualified independent examiner who has verified the information SCOBAG disclosed pursuant to II.D.2 of the Swiss Bank Program.

Under the terms of this Agreement, SCOBAG shall: (a) commit no U.S. federal offenses; and (b) truthfully and completely disclose, and continue to disclose during the term of this Agreement, consistent with applicable law and regulations, all material information described in Part II.D.1 of the Swiss Bank Program that is not protected by a valid claim of privilege or work product with respect to the activities of SCOBAG, those of its parent company and its affiliates, and its officers, directors, employees, agents, consultants, and others, which information can be used for any purpose, except as otherwise limited in this Agreement.

Notwithstanding the term of this Agreement, SCOBAG shall also, subject to applicable laws or regulations: (a) cooperate fully with the Department, the Internal Revenue Service, and any other federal law enforcement agency designated by the Department regarding all matters related to the conduct described in this Agreement; (b) provide all necessary information and assist the United States with the drafting of treaty requests seeking account information of U.S. Related Accounts, whether open or closed, and collect and maintain all records that are potentially responsive to such treaty requests in order to facilitate a prompt response; (c) assist the Department or any designated federal law enforcement agency in any investigation.

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prosecution, or civil proceeding arising out of or related to the conduct covered by this Agreement by providing logistical and technical support for any meeting, interview, federal grand jury proceeding, or any federal trial or other federal court proceeding; (d) use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer, director, employee, agent, or consultant of SCOBAG at any meeting or interview or before a federal grand jury or at any federal trial or other federal court proceeding regarding matters arising out of or related to the conduct covered by this Agreement; (e) provide testimony of a competent witness as needed to enable the Department and any designated federal law enforcement agency to use the information and evidence obtained pursuant to SCOBAG's participation in the Swiss Bank Program; (f) provide the Department, upon request, consistent with applicable law and regulations, all information, documents, records, or other tangible evidence not protected by a valid claim of privilege or work product regarding matters arising out of or related to the conduct covered by this Agreement about which the Department or any designated federal law enforcement agency inquires, including the translation of significant documents at the expense of SCOBAG; and (g) provide to any state law enforcement agency such assistance as may reasonably be requested in order to establish the basis for admission into evidence of documents already in the possession of such state law enforcement agency in connection with any state civil or criminal tax proceedings brought by such state law enforcement agency against an individual arising out of or related to the conduct described in this Agreement.

SCOBAG further agrees to undertake the following:

1. SCOBAG agrees, to the extent it has not provided complete transaction information pursuant to Part II.D.2.b.vi of the Swiss Bank Program, and set forth in subparagraph (c) on pages 2-3 of this Agreement, because the Tax Division has agreed to specific dollar threshold limitations for the initial production, SCOBAG will promptly provide the entirety of the transaction information upon request of the Tax Division.
2. SCOBAG agrees to close as soon as practicable, and in no event later than two years from the date of this Agreement, any and all accounts of recalcitrant account holders, as defined in Section 1471(d)(6) of the Internal Revenue Code; has implemented, or will implement, procedures to prevent its employees from assisting recalcitrant account holders to engage in acts of further concealment in connection with closing any account or transferring any funds; and will not open any U.S. Related Accounts except on conditions that ensure that the account will be declared to the United States and will be subject to disclosure by SCOBAG.
3. SCOBAG agrees to use best efforts to close as soon as practicable, and in no event later than the four-year term of this Agreement, any and all U.S. Related Accounts classified as "dormant" in accordance with applicable laws, regulations and guidelines, and will provide periodic reporting upon request of the Tax Division if unable to close any dormant accounts within that time period. SCOBAG will only provide banking or securities services in connection with any such "dormant" account to the extent that such services are required pursuant to applicable laws, regulations and guidelines. If at any point contact with the

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account holder(s) (or other person(s) with authority over the account) is re-established, SCOBAG will promptly proceed to follow the procedures described above in paragraph 2.

4. SCOBAG agrees to retain all records relating to its U.S. cross-border business, including records relating to all U.S. Related Accounts closed during the Applicable Period, for a period of ten (10) years from the termination date of the this Agreement.

With respect to any information, testimony, documents, records or other tangible evidence provided to the Tax Division pursuant to this Agreement, the Tax Division provides notice that it may, subject to applicable law and regulations, disclose such information or materials to other domestic governmental authorities for purposes of law enforcement or regulatory action as the Tax Division, in its sole discretion, shall deem appropriate.

SCOBAG's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. SCOBAG, however, shall cooperate fully with the Department in any and all matters relating to the conduct described in this Agreement, until the date on which all civil or criminal examinations, investigations, or proceedings, including all appeals, are concluded, whether those examinations, investigations, or proceedings are concluded within the four-year term of this Agreement.

It is understood that if the Tax Division determines, in its sole discretion, that:

- (a) SCOBAG committed any U.S. federal offenses during the term of this Agreement;
- (b) SCOBAG or any of its representatives have given materially false, incomplete, or misleading testimony or information;
- (c) the misconduct extended beyond that described in the Statement of Facts or disclosed to the Tax Division pursuant to Part II.D.1 of the Swiss Bank Program; or
- (d) SCOBAG has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program, then (i) SCOBAG shall thereafter be subject to prosecution and any applicable penalty, including restitution, forfeiture, or criminal fine, for any federal offense of which the Department has knowledge, including perjury and obstruction of justice; (ii) all statements made by SCOBAG's representatives to the Tax Division or other designated law enforcement agents, including but not limited to the appended Statement of Facts, any testimony given by SCOBAG's representatives before a grand jury or other tribunal whether prior to or subsequent to the signing of this Agreement, and any leads therefrom, and any documents provided to the Department, the Internal Revenue Service, or designated law enforcement authority by SCOBAG shall be admissible in evidence in any criminal proceeding brought against SCOBAG and relied upon as evidence to support any penalty on SCOBAG; and (iii) SCOBAG shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or documents or any leads therefrom should be suppressed.

Determination of whether SCOBAG has breached this Agreement and whether to pursue prosecution of SCOBAG shall be in the Tax Division's sole discretion. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, SCOBAG, will be imputed to SCOBAG for the purpose of determining

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whether SCOBAG has materially violated any provision of this Agreement shall be in the sole discretion of the Tax Division.


In the event that the Tax Division determines that SCOBAG has breached this Agreement, the Tax Division agrees to provide SCOBAG with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, SCOBAG may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that SCOBAG has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of SCOBAG.

In addition, any prosecution for any offense referred to on page 1 of this Agreement that is not time-barred by the applicable statute of limitations on the date of the announcement of the Swiss Bank Program (August 29, 2013) may be commenced against SCOBAG, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, SCOBAG waives any defenses premised upon the expiration of the statute of limitations, as well as any constitutional, statutory, or other claim concerning pre-indictment delay and agrees that such waiver is knowing, voluntary, and in express reliance upon the advice of SCOBAG's counsel.


It is understood that the terms of this Agreement, do not hind any other federal, state, or local prosecuting authorities other than the Department. If requested by SCOBAG, the Tax Division will, however, bring the cooperation of SCOBAG to the attention of such other prosecuting offices or regulatory agencies.

It is further understood that this Agreement and the Statement of Facts attached hereto may be disclosed to the public by the Department and SCOBAG consistent with Part V.B of the Swiss Bank Program.

This Agreement supersedes all prior understandings, promises and/or conditions between the Department and SCOBAG. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by both parties.

  
CAROLINE D. CIRAOLO  
Acting Assistant Attorney General  
Tax Division

05/28/2015  
DATE

  
THOMAS J. SAWYER  
Senior Counsel for International Tax Matters

28 May 2015  
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BRIAN D. BAILEY  
Trial Attorney

28 May 2015  
DATE

AGREED AND CONSENTED TO:  
SCOBAG Privathank AG

By:   
\_\_\_\_\_  
Dr. Bruno Dallo  
CEO

22 May 2015  
DATE

APPROVED:  
  
\_\_\_\_\_  
Rashid Bahar  
Bär & Karrer AG

22 May 2015  
DATE

  
\_\_\_\_\_  
Daniel W. Levy  
McKool Smith PC

May 26, 2015  
DATE

**EXHIBIT A TO SCOBAG PRIVATBANK AG NON-PROSECUTION AGREEMENT**

**STATEMENT OF FACTS**

**Introduction**

1. Scobag Privatbank AG ("Scobag") was originally founded in 1968 to provide financial and other services to its founders. It obtained its banking license in 1986.
2. It is headquartered in the Swiss city of Basel. Scobag's place of business is the Canton of Basel, one of the member states of Switzerland, where Scobag maintains its sole office. Until 2015, Scobag's articles of incorporation specified that its corporate purpose is to offer banking services to clients in the Basel area. Scobag employs 33 people.<sup>1</sup>
3. Scobag's principal business is managing the assets of the Swiss families that founded Scobag. In addition to the assets of the founding families, it has other accountholders.
4. Scobag is a local bank focused on Swiss clients. For example, more than 99% of assets under Scobag's management are owned by persons residing in Switzerland and more than 99.9% of assets under management are owned by residents of Switzerland or the European Union.
5. Except for the policies and procedures described below, Scobag did not structure, operate, or supervise its U.S. Related Accounts<sup>2</sup> in any way that was different or separate from its non-U.S. Related Accounts.
6. Until about 2008, Scobag made no significant efforts to obtain new clients. Scobag did not specifically target U.S. Persons as potential clients.

**U.S. Income Tax & Reporting Obligations**

7. U.S. citizens, resident aliens, and legal permanent residents have an obligation to report all income earned from foreign bank accounts on their tax returns and to pay the taxes due on that income. Since tax year 1976, U.S. citizens, resident aliens, and legal permanent residents have had an obligation to report to the Internal Revenue Service ("IRS") on the Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether they had a financial interest in, or signature authority over, a financial account in a foreign country in a

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<sup>1</sup> All data, including dates and amounts, provided in this Statement of Facts is approximate.

<sup>2</sup> Capitalized terms not otherwise defined in this Statement of Facts have the meanings set forth in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, issued on August 29, 2013 (the "Program") or in the Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, dated February 14, 2013 (the "FATCA Agreement").

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particular year by checking "Yes" or "No" in the appropriate box and identifying the country where the account was maintained.

8. Since 1970, U.S. citizens, resident aliens, and legal permanent residents who have had a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year were required to file with the Department of the Treasury a Report of Foreign Bank and Financial Accounts, FinCEN Form 114, formerly known as Form TD F 90-22 (the "FBAR").
9. An "undeclared account" was a financial account owned by an individual subject to U.S. tax and maintained in a foreign country that had not been reported by the individual account owner to the U.S. government on an income tax return and an FBAR.
10. "U.S. Related Accounts" means accounts which exceeded \$50,000 in value at any time during the Applicable Period, and as to which indicia exist that a U.S. Person or Entity has or had a financial or beneficial interest in, ownership of, or signature authority (whether direct or indirect) or other authority over the account.
11. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. While Swiss law permits the exchange of information in response to administrative requests made pursuant to a tax treaty with the United States and certain legal requests in cases of tax fraud, Swiss law otherwise prohibits the disclosure of identifying information without client authorization. Because of the secrecy guarantee that they created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.
12. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the Internal Revenue Service and the United States Department of Justice and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department of Justice and UBS filed a deferred prosecution agreement in the Southern District of Florida in which UBS admitted that its cross-border banking business used Swiss privacy law to aid and assist U.S. clients in opening accounts and maintaining undeclared assets and income from the IRS. After the UBS announcement, several other Swiss banks have publicly announced that they were or are the targets of similar criminal investigations and that they would likewise be exiting and not accepting certain U.S. clients (UBS and the other targeted Swiss banks are collectively referred to as "Category 1 banks"). The Category 1 banks' cases have been closely monitored by banks operating in Switzerland, including Scobag, since at least August of 2008.

**Scobag's Policies with Respect to U.S. Related Accounts – 2001 through 2012**

13. In 2001, Scobag entered a Qualified Intermediary (QI) Agreement with the Internal Revenue Service ("IRS"). Pursuant to Scobag's interpretation of the terms of the QI Agreement, an interpretation encouraged by the Swiss Bankers Association and widely adopted among Swiss banks that had entered into QI Agreements, Scobag generally required U.S. persons holding an account to either: (a) execute an IRS Form W-9 and accept disclosure of their

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identity to the IRS; (b) not execute a Form W-9 and be subject to 30% back-up withholding tax on "reportable payments"; or (c) not execute a Form W-9 and request from the account holder the authority to exclude from the account any assets that generate, or could generate, "reportable payments" or, for pre-existing accounts, to sell any assets that generate, or could generate "reportable payments." Under the QI Agreement, "reportable payments" are, in general, U.S. source income, such as dividends paid on U.S. securities.

14. After learning of the UBS AG (UBS) investigation in May 2008, Scobag reviewed and enhanced its policies and procedures with respect to its QI Agreement. Among other things, it limited the manner in which U.S. persons who had not provided Scobag with a Form W-9 could be serviced, including: (a) not issuing debit or credit cards; (b) not accepting orders or instructions by telephone or facsimile from the United States; and (c) not communicating by telephone, facsimile, or e-mail with the United States. The purpose of this limitation was to ensure that Scobag did not violate U.S. Securities and Exchange Commission ("SEC") rules that require registration with the SEC as an investment adviser.

#### **Scobag's U.S. Related Accounts**

15. Over the course of the Applicable Period, Scobag had 13 U.S. Related Accounts out of a total of more than 1000 accounts open or closed over the Applicable Period. This represents less than 1.3%. At the end of December 2013, Scobag held a total of \$25.5 billion of client assets.
16. Of the 13 U.S. Related Accounts: ten were opened before August 1, 2008; two were opened between August 1, 2008 and February 28, 2009; and one was opened after February 28, 2009. Of the ten U.S. Related Accounts opened before August 2008, nine were opened prior to June 2001 and one was opened in 2004. The last U.S. Related Account was opened in April 2009. Presently, six of the 13 U.S. Related Accounts are open and seven are closed. The maximum dollar value, in the aggregate, of the U.S. Related Accounts was approximately \$6,945,700.
17. Clients who opened accounts at Scobag typically had a close connection to Switzerland and the Basel area. Of the 13 U.S. Related Accounts, five were held by Swiss nationals, four were held by dual Swiss-U.S. nationals, two were held by U.S. nationals with Swiss relatives, and two were held by a German national.

#### **Scobag's Servicing of U.S. Related Accounts**

18. Scobag offered a variety of traditional Swiss banking services that it knew could assist, and that did assist, U.S. clients in the concealment of assets and income from the IRS. One such service was hold mail. Scobag provided, upon client request, a "hold mail" service, which meant that the bank retained periodic statements and communications to its clients at Scobag for client review. Of the 13 U.S. Related Accounts, four had hold mail service, although one who used the hold mail service regularly instructed Scobag to mail statements and correspondence to the United States. Of the total current Scobag account population, 4.9% have hold mail service.

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19. In addition, Scobag provided, upon client request, "numbered" accounts, that is, a service by which access to information about an account, including the identity of the account holder, was limited to only certain employees of Scobag. The identifying information obtained from the prospective account holder to open a numbered account and the information maintained by Scobag about a numbered account are the same as that obtained to open and to maintain a named account. Of the 13 U.S. Related Accounts, three were numbered accounts. One of the three numbered accounts also had hold mail service. Of the total current Scobag account population, 11% have numbered accounts.
20. Scobag provided numbered accounts and hold mail services to U.S. taxpayers who had not provided Scobag with a Form W-9.
21. In addition, a small number of clients who had not provided Scobag with a Form W-9 made large cash withdrawals. For example, a Swiss national residing in the U.S. ("Account Holder 7") opened an account at Scobag prior to June 2001. Account Holder 7 did not provide a Form W-9 to Scobag. In 2012, Account Holder 7 closed the account. Shortly before doing so, Account Holder 7 bought two kilograms of gold for more than 103,000 Swiss francs and directed that the gold be delivered to a Swiss relative who had power of attorney over the account. The balance of the account was withdrawn in cash, specifically, \$30,000 and 31,000 Swiss francs. Account Holder 7 had all documents concerning the account sent to the same relative in Switzerland.
22. An account held by a Swiss national residing in the United States ("Account Holder 13") opened an account at Scobag prior to June 2001. Account Holder 13 did not provide a Form W-9 to Scobag. Account Holder 13's sibling, a Swiss national residing in Switzerland, had power of attorney over the account. Account Holder 13 and Account Holder 13's sibling regularly withdrew \$9,000 in cash from the account. In 2011, Account Holder 13 closed the account. At the time of the account closure, Account Holder 13 withdrew \$100,000 and 300,000 Swiss francs.

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**EXHIBIT B TO THE NON-PROSECUTION AGREEMENT  
WITH SCOBAG PRIVATBANK AG**

**RESOLUTION OF THE BOARD OF DIRECTORS**

At a duly convened telephone conference held on 22 May 2015, the Board of Directors (the "Board") of Scobag Privatbank AG (the "Bank") takes note of the following:

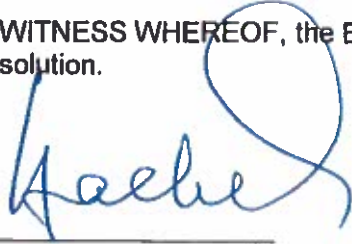
- In the Joint Statement between the United States Department of Justice ("DOJ") and the Swiss Federal Department of Finance, Swiss banks have been encouraged by both the Swiss Government and the Swiss Financial Market Authority FINMA to participate in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, dated 29 August 2013 (the "US Program").
- The Board decided in December 2013 that the Bank would participate in the US Program. The Bank submitted on 23 December 2013 a Letter of Intent to the DOJ indicating its interest to participate as a Category 2 Bank in the US Program.
- The DOJ proposed to the Bank to enter into a non-prosecution agreement (the "NPA").

The Board hereby resolves that:

1. The Board of the Bank has reviewed the entire NPA attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement and voted to enter into the NPA, including to pay a sum of USD 9,090.- to the DOJ in connection with the NPA;
2. Dr. Bruno Dallo, Chief Executive Officer of the Bank is hereby authorized to execute the NPA on behalf of the Bank (the "Authorized Signatory") substantially in such form as reviewed by this Board with such non-material changes as the Authorized Signatory may approve;
3. Both Dan Levy, McKool Smith, and Rashid Bahar, Bar & Karrer Ltd., are entitled to sign the NPA in their capacity as the Bank's U.S. and Swiss legal counsel (the "Additional Signatories");
4. The Board hereby authorizes, empowers and directs the Authorized Signatory to take, on behalf of the Bank, any and all actions as may be necessary or appropriate, and to approve and execute the forms, terms or provisions of any agreement or other document, as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

5. All of the actions of the Authorized Signatory and the Additional Signatories which have or will be taken In connection with the NPA are hereby ratified, confirmed, approved and adopted as actions on behalf of the Bank.

IN WITNESS WHEREOF, the Board of Directors of the Bank has executed this Resolution.

A handwritten signature in blue ink, appearing to read 'Staehelin', with a large, stylized flourish above the name.

Dr. Thomas Staehelin  
Chairman of the  
Board of Directors

A handwritten signature in blue ink, appearing to read 'Jirasko', with a horizontal line through the middle and a large flourish at the end.

Daniel Jirasko  
Secretary of the  
Board of Directors