

FILED by **DD** D.C.

Dec 2, 2019

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - FT. LAUD.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
19-60359-CR-ALTMAN/HUNT

CASE NO. _____

18 U.S.C. § 371

UNITED STATES OF AMERICA

v.

HSBC PRIVATE BANK (SUISSE) SA,

Defendant.

INFORMATION

The United States Attorney charges that:

Introduction

At times relevant to this Information:

1. Defendant **HSBC PRIVATE BANK (SUISSE) SA** ("**HSBC Switzerland**" or the "**Bank**") was a private bank incorporated in Switzerland. HSBC Switzerland was the product of a series of mergers and acquisitions, including HSBC Guyerzeller Bank Ltd., which merged with the Bank in 2009. HSBC Switzerland had its headquarters in Geneva, Switzerland, and maintained offices in Lugano and Zurich.

2. HSBC Switzerland provided a variety of banking and other financial services to customers both resident inside and outside of Switzerland, including providing private-banking and asset-management services to United States citizens, resident aliens, and legal permanent residents ("U.S. persons"), some of whom lived in the Southern District of Florida. HSBC Switzerland provided these services through relationship managers and other client advisors ("Bankers"), and also acted as a custodian of assets that were managed by both wholly owned and third-party fiduciary service providers.

3. HSBC Switzerland maintained some bank accounts on behalf of U.S. persons in the names of nominee entities and trusts. HSBC Guyerzeller Trust Company AG and HSBC Trust Company AG were wholly owned subsidiaries of HSBC Switzerland and were fiduciary-service providers that created and managed some of the nominee entities and trusts on behalf of HSBC clients.

4. U.S. persons were obligated to report all income earned worldwide, including from foreign bank accounts, on their tax returns and to pay the taxes due on that income. U.S. persons were also obligated to report to the Internal Revenue Service ("IRS"), on Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether they had a financial interest in, or signature or other authority over, a financial account in a foreign country in a particular year and to identify the country where the account was maintained.

5. In addition, U.S. persons who had a financial interest in, or signature or other 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 a Report of Foreign Bank and Financial Accounts, Form TD 90-22.1 (since changed to FinCEN Form 114), ("FBAR"), with the Department of the Treasury.

6. An "undeclared account" was a financial account beneficially owned by a U.S. person and maintained in a foreign country that the U.S. person had not timely reported to the United States on a tax return and FBAR.

COUNT 1
CONSPIRACY
18 U.S.C. § 371

7. The factual allegations contained in Paragraphs 1 through 6 of this Information are realleged and incorporated by reference as if copied verbatim.

8. From at least 2000 through 2010, in the Southern District of Florida and elsewhere, the defendant,

HSBC PRIVATE BANK (SUISSE) SA,

unlawfully, voluntarily, intentionally, and knowingly conspired and agreed with U.S. persons, HSBC Switzerland Bankers and employees, and wholly owned and third-party fiduciaries and fiduciary service providers, (1) to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, namely, federal income taxes and (2) to commit offenses against the United States, namely, violations of Title 26, United States Code, Sections 7201 and 7206(1).

9. It was an object of the conspiracy that HSBC Switzerland and its co-conspirators would conceal the offshore assets and income of U.S. persons who maintained financial accounts at HSBC Switzerland from the IRS, evade those U.S. persons' U.S. tax obligations, and file false federal tax returns with the IRS.

Overview of the Conspiracy

10. From at least 2000 through 2010, HSBC Switzerland assisted U.S. persons in concealing their offshore assets and income from U.S. tax authorities, evading their U.S. tax obligations, and filing false federal tax returns with the IRS. By 2002, the Bank held a total of approximately 720 undeclared relationships on behalf of U.S. persons with an aggregate value of approximately \$825 million. The Bank's undeclared assets under management peaked in 2007, at approximately \$1.26 billion. HSBC Switzerland and its co-conspirators used Swiss bank secrecy to conceal the accounts of U.S. clients from the U.S. tax authorities, and HSBC

Switzerland Bankers would emphasize this to clients and prospective clients. HSBC Switzerland also provided a number of traditional Swiss banking services that further assisted its U.S. clients in concealing their accounts from the U.S. government, including the use of numerical and coded names for accounts, prepaid debit, credit, and travel cards, and hold-mail services in which the Bank would not send any account documents to the account holders.

11. HSBC Switzerland Bankers advised and assisted U.S. persons to open and maintain bank accounts in the names of nominee entities and trusts that did not serve any business purpose, in order to conceal the U.S. person's beneficial ownership of the accounts.

Manner and Means of the Conspiracy

12. Among the manner and means by which HSBC Switzerland and its co-conspirators carried out the conspiracy were the following:

- a. HSBC Switzerland opened accounts in Switzerland for U.S. persons that the clients did not report to the United States on either Forms 1040, Schedule B, or on FBARs, and for which the U.S. persons did not report or pay taxes on account earnings to the United States. The materially false Forms 1040 that clients filed were often electronically transmitted to the IRS through the use of interstate wire communications. Funds were often transferred to or from these accounts by means of wire transfers in foreign commerce.
- b. HSBC Switzerland managed undeclared accounts for U.S. persons at the Bank.
- c. HSBC Switzerland assured U.S. clients that Swiss bank secrecy would conceal their assets and income from being disclosed to U.S. tax authorities.
- d. HSBC Switzerland provided U.S. clients with code-name or numbered accounts that provided an extra level of concealment.

- e. HSBC Switzerland provided U.S. clients with prepaid debit, credit, and travel cards linked to their undeclared accounts, which allowed U.S. clients to withdraw funds remotely or pay for goods and services without a clear paper trail back to their undeclared accounts in Switzerland.
- f. HSBC Switzerland provided hold-mail services, under which account statements and other documents associated with the client's account would not be sent to the client's address in the United States.
- g. HSBC Switzerland created and managed nominee trusts and entities for clients via wholly owned fiduciary-service-provider companies such as HSBC Guyerzeller Trust Company AG and HSBC Trust Company AG and Cordico Management AG. HSBC Switzerland used these wholly owned fiduciary-service-provider companies to provide individuals from tax-haven countries to serve as trustees or directors of the nominee entities
- h. HSBC Switzerland assisted clients in creating entities that were incorporated in offshore tax-haven jurisdictions, such as the British Virgin Islands, Liechtenstein, and Panama, for further concealment and to circumvent an agreement the Bank had with the IRS that required the Bank to report U.S. persons' ownership of accounts holding U.S. securities.
- i. Beginning in 2007, in order to appear to distance itself from the tax evasion scheme, HSBC Switzerland ceased using its wholly owned subsidiaries to create and manage nominee trusts, and transferred management of these trusts to an individual fiduciary who was a former employee of the Bank.
- j. Beginning in 2009, HSBC Switzerland closed accounts for U.S. persons who had \$1 million or less in assets under management, or did not sign an IRS Form W-9

and other documents required by the policy. However, some Bankers assisted some clients in closing their accounts in a manner that continued to conceal their offshore assets, including directing their clients to other Swiss banks that were continuing to accept undeclared accounts and allowing clients to withdraw the contents of their accounts in cash.

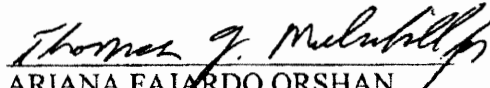
Overt Acts

13. In furtherance of the conspiracy and to effect the illegal objects thereof, HSBC Switzerland and other co-conspirators committed the following overt acts, among others, in the Southern District of Florida and elsewhere:

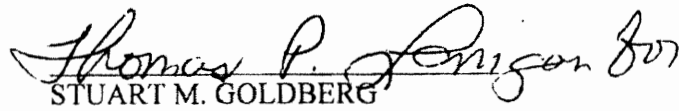
- a. On various dates between 2000 and 2010, HSBC Switzerland Bankers opened new undeclared accounts for U.S. persons in the names of nominee entities and trusts, including, for example, an HSBC Banker who convinced a client who had accounts with at least three other Swiss banks to transfer some of his assets to HSBC Switzerland and to set up his account in the name of a company established in Panama.
- b. On various dates between in or about 2005 and in or about 2007, at least four HSBC Switzerland Bankers traveled to the United States in order to meet with at least 25 different undeclared U.S. clients, and made efforts to obtain new U.S. clients.
- c. In or around 2006, an HSBC Switzerland Banker travelled to the United States and attended Design Miami, a major annual arts and design event in the Southern District of Florida, in an effort to recruit prospective U.S. clients to open undeclared accounts at HSBC Switzerland.

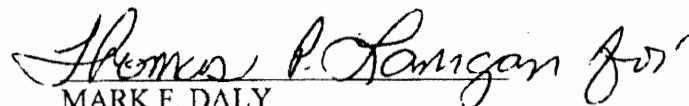
- d. In or around 2009, an HSBC Switzerland Banker allowed a U.S. client with an undeclared account holding approximately \$20 million in assets under management to transfer his funds to an account in the name of his girlfriend, who was a citizen of Hong Kong. However, the U.S. client maintained control over the account, and the HSBC Switzerland Banker assured the U.S. client that the account would not be disclosed to U.S. authorities.

All in violation of Title 18, United States Code, Section 371.


ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY


THOMAS P. LANIGAN
ASSISTANT UNITED STATES ATTORNEY


STUART M. GOLDBERG
ACTING DEPUTY ASSISTANT ATTORNEY
GENERAL
TAX DIVISION


MARK F. DALY
SENIOR LITIGATION COUNSEL
JASON H. POOLE
ASSISTANT CHIEF
GRACE E. ALBINSON
TRIAL ATTORNEY