

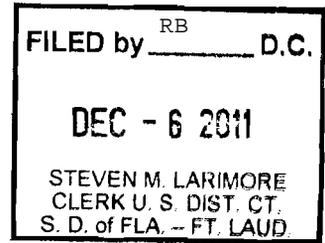
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
11-cr-60287-MIDDLEBROOKS / JOHNSON
CASE NO. _____
18 U.S.C. § 371

UNITED STATES OF AMERICA

v.

AMIR ZAVIEH
a/k/a/ ALLEN ZAVIEH,
Defendant.

_____/



INDICTMENT

The Grand Jury charges:

BACKGROUND

At all relevant times, unless otherwise specified:

1. United States citizens, resident aliens, and legal permanent residents of the United States 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 that individual had a financial interest in, or signature authority over, a financial account in a foreign country in a particular year by checking "Yes" or "No" in the appropriate box and identifying the country where the account was maintained. United States citizens and residents had an obligation to report all income earned from foreign bank accounts on the tax return.

2. United States citizens, resident aliens, and legal permanent residents of the United States who 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, Form TD F 90-22.1 (the “FBAR”). The FBAR for the applicable year was due by June 30 of the following year.

3. An “undeclared account” was a financial account owned by individuals subject to United States tax and maintained in a foreign country that has not been reported to the United States government on a tax return and an FBAR.

PARTIES, PERSONS, and ENTITIES

4. AMIR ZAVIEH, also known as “Allen Zavieh”, was a resident of San Francisco, California, and was a naturalized United States citizen.

5. “U.S. Person A” was a United States citizen who lived with defendant AMIR ZAVIEH from in or around 1984 to in or around July of 2008.

6. UBS AG (“UBS”), a corporation organized under the laws of Switzerland, directly and through its subsidiaries, operated a global financial services business. As one of the biggest banks in Switzerland and largest wealth managers in the world, UBS provided banking, wealth management, asset management and investment banking services, among other services, around the globe, including through branches located in the United States and, in particular, the Southern District of Florida.

7. “Cantonal Bank” was a bank that was an independent, incorporated public-law institution wholly owned by Basel City Canton, Switzerland that provided cross-border banking services to U.S. customers and operated branches throughout Switzerland, including in Zurich.

8. Renzo Gadola, a co-conspirator, was a citizen and resident of Switzerland, and was a registered investment advisor with the United States Securities and Exchange Commission. From in or around 1995 through in or around August 2008, UBS employed Renzo Gadola as a

private banker. From in or around 1999 to in or around 2004, Renzo Gadola served as the banker for defendant AMIR ZAVIEH's undeclared account at UBS. In or about February 2009, Renzo Gadola began working in Switzerland as an independent investment advisor, doing business under the name RG Investment Partner AG and sharing office space with Martin Lack.

9. Martin Lack, a co-conspirator, was a citizen and resident of Switzerland. From in or around the early 1990's until in or around 2003, UBS employed Martin Lack as a private banker and as executive director for its North America international business, which included the cross-border banking business. In or around 2003, Martin Lack left UBS and was employed at Keusch & Merlo Invest AG, an investment advisory firm in Zurich, Switzerland. From in or around 2003 until present, Martin Lack has operated as an independent investment advisor at Lack & Partner Asset Management AG in Zurich, Switzerland. From in or around January 2009 to in or around June 2010, Martin Lack managed defendant AMIR ZAVIEH's undeclared account at Cantonal Bank.

10. "UBS Banker B.M.", an unindicted co-conspirator, was a banker at UBS who was assigned to a Zurich-based group of bankers who serviced the undeclared accounts of U.S. customers residing on the West Coast of the United States. From in or around January 2004 to in or around 2008, UBS Banker B.M. served as the banker for defendant AMIR ZAVIEH's undeclared account at UBS.

11. "Swiss Banker S.L.", an unindicted co-conspirator, was a banker at Cantonal Bank's private banking office in Zurich, Switzerland, who assisted United States customers to open and maintain undeclared accounts at Cantonal Bank. From in or around January 2009 to in

or around August 2011, Swiss Banker S.L. served as the banker for defendant AMIR ZAVIEH's undeclared account at Cantonal Bank.

12. "Swiss Financial Advisor M.B.", an unindicted co-conspirator, was an employee of an independent asset management company in Zurich, Switzerland, that opened and maintained undeclared accounts at Swiss banks for U.S. customers. From in or around June 2010 to the present, Swiss Financial Advisor M.B. managed defendant AMIR ZAVIEH's undeclared account at Cantonal Bank.

CONSPIRACY

13. From on or about March 15, 1989, the exact date being unknown to the Grand Jury, to on or about August 1, 2011, in the Southern District of Florida and elsewhere, defendant

AMIR ZAVIEH a/k/a ALLEN ZAVIEH,

and individuals known and unknown to the Grand Jury, did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree together and with each other to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of revenue: to wit, income taxes.

OBJECT OF THE CONSPIRACY

The object of the conspiracy was as follows:

14. It was a part and an object of the conspiracy that defendant AMIR ZAVIEH, and his co-conspirators, both known and unknown to the grand jury, would and did defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful

governmental functions of the IRS in the ascertainment, computation, assessment and collection of United States income taxes owed by the defendant.

MANNER AND MEANS USED TO CARRY OUT THE CONSPIRACY

The manner and means by which the defendant AMIR ZAVIEH, and his co-conspirators, both known and unknown to the grand jury, would and did carry out the conspiracy were the following:

15. It was a part of the conspiracy that defendant AMIR ZAVIEH would and did open and maintain undeclared accounts at UBS and Cantonal Bank to conceal assets and income from the IRS.

16. It was further a part of the conspiracy that defendant AMIR ZAVIEH instructed UBS not to disclose his ownership and control of his undeclared account to the IRS

17. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did meet with Swiss bankers and asset managers, including Renzo Gadola and Swiss Banker B.M., in the United States to discuss his undeclared accounts.

18. It was further a part of the conspiracy that Renzo Gadola would and did keep notes in code when meeting in the United States with clients with undeclared accounts.

19. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did utilize wires to instruct his Swiss bankers and asset managers to make investments from his undeclared account at UBS.

20. It was further part of the conspiracy that defendant AMIR ZAVIEH would and did use the funds from his undeclared account at UBS to pay his personal expenses.

21. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did fail to file individual income tax returns as a means of concealing his ownership and control of assets and income from the IRS.

22. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did prepare and file with the IRS, and cause to be prepared and filed with the IRS, a false and fraudulent United States Individual Income Tax Return, form 1040A, to conceal his ownership and control of assets and income from the IRS.

23. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did fail to file FBARs to conceal his ownership and control of assets and income from the IRS.

24. It was further a part of the conspiracy that defendant AMIR ZAVIEH would and did maintain domestic bank accounts in the name of a nominee in order to conceal his ownership and control of assets and income from the IRS.

25. It was further part of the conspiracy that defendant AMIR ZAVIEH would and did fabricate a false story about the ownership of the assets in the undeclared accounts at UBS and Cantonal Bank in order to conceal the defendant's ownership and control of assets and income from the IRS.

26. It was further part of the conspiracy that defendant AMIR ZAVIEH would and did make false statements to federal law enforcement agents to conceal the defendant's ownership and control of assets and income from the IRS.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the co-conspirators committed at least one of the following overt acts, among others, in the Southern District of Florida and elsewhere:

27. On or about March 15, 1989, in the UBS office in San Francisco, California, defendant AMIR ZAVIEH opened an undeclared account in his own name at UBS in Switzerland and in the process executed a document in which he identified himself as the beneficial owner of the assets in the undeclared account.

28. On or about March 15, 1989, in the UBS office in San Francisco, California, defendant AMIR ZAVIEH executed a document identifying himself as having signature authority over his undeclared account at UBS in Switzerland.

29. On or about March 15, 1989, in the UBS office in San Francisco, California, defendant AMIR ZAVIEH executed a document granting to U.S. Person A a power of attorney over his undeclared account at UBS.

30. On or about June 26, 2000, defendant AMIR ZAVIEH signed a document entitled "Assets and Income Declaration for US Taxable Persons" in which he declared, in reference to his undeclared UBS account:

I would like to avoid disclosure of my identity to the US Internal Revenue Service under the new tax regulations. To this end, I shall sell all my investments in US securities before 31 October 2000.

31. On or about November 22, 2000, defendant AMIR ZAVIEH faxed a handwritten letter to UBS in which he instructed his banker, Renzo Gadola, to sell securities held in defendant AMIR ZAVIEH's undeclared account at UBS.

32. On or about July 28, 2001, defendant AMIR ZAVIEH faxed a handwritten letter to UBS in Zurich requesting to meet in person, and speak by phone, with Renzo Gadola.

33. On or about August 9, 2001, at a meeting in Zurich, Switzerland, defendant AMIR ZAVIEH executed documents in which he identified himself as the beneficial owner of the assets in his undeclared account at UBS.

34. On or about August 9, 2001, at a meeting in Zurich, Switzerland, defendant AMIR ZAVIEH executed a document granting to U.S. Person A a power of attorney over his undeclared account at UBS.

35. On or about January 17, 2002, Renzo Gadola and another banker at UBS AG sent a letter to defendant AMIR ZAVIEH stating that:

After a further analysis of US tax law (“deemed sales in the US”), we have concluded that in order to address the possibility that transactions in securities may be subject to reporting obligations, and, in the absence of such reporting, to the application of back-up withholding taxes, it is necessary to implement the following: Effective immediately, we will not be able to accept your instructions for the purchase and sale of securities.

36. On or about January 29, 2002, defendant AMIR ZAVIEH sent a handwritten note to UBS directing the bank to wire transfer \$3,500 from his undeclared account at UBS to an account in the United States held in the name of U.S. Person A.

37. On or about June 6, 2003, defendant AMIR ZAVIEH instructed Renzo Gadola to send a list of list of bonds to him at a hotel in Austria.

38. On or about June 13, 2003, defendant AMIR ZAVIEH instructed Renzo Gadola to transfer 4,000 Euros from his undeclared account to a bank in Austria to be retrieved by defendant AMIR ZAVIEH in person.

39. On or about June 18, 2003, defendant AMIR ZAVIEH instructed Renzo Gadola to invest cash in defendant AMIR ZAVIEH's undeclared account at UBS in certain time deposits.

40. On or about August 25, 2003, defendant AMIR ZAVIEH and U.S. Person A met with U.S. Person A at a hotel in San Francisco, California, to discuss defendant AMIR ZAVIEH's undeclared account at UBS.

41. On or about 2004, UBS Banker B.M. became the new relationship manager for defendant AMIR ZAVIEH's undeclared account at UBS.

42. On or about January 19, 2004, defendant AMIR ZAVIEH sent a handwritten letter to UBS directing UBS Banker B.M. to use the funds in defendant AMIR ZAVIEH's undeclared account to invest in securities. In that same letter, AMIR ZAVIEH stated: "[I]n the event of my death, a formal authorization will be mailed to you as to the disposition of my entire assets."

43. On or about August 19, 2004, defendant AMIR ZAVIEH and U.S. Person A met with UBS Banker B.M. at a hotel in San Francisco, California, to discuss defendant AMIR ZAVIEH's undeclared account at UBS.

44. On or about April 4, 2008, defendant AMIR ZAVIEH filed with the IRS a false U.S. Individual Income Tax Return, Form 1040A, for the tax year 2007, that he signed under the pains and penalties of perjury, that failed to disclose either his financial interest and signature authority over his undeclared account at UBS or the income generated by the assets in that account.

45. In or around 2008, Renzo Gadola advised defendant AMIR ZAVIEH that he could transfer defendant AMIR ZAVIEH's undeclared account at UBS to Cantonal Bank because Martin Lack had a good working relationship with Cantonal Bank.

46. On or about June 7, 2008, after Renzo Gadola informed defendant AMIR ZAVIEH that records of his undeclared account at UBS could be disclosed to the IRS, defendant AMIR ZAVIEH sent a handwritten letter to UBS directing the bank to transfer the contents of his undeclared account to Cantonal Bank.

47. In or around January 2009, Renzo Gadola advised defendant AMIR ZAVIEH that when he closed his undeclared account at UBS and transferred the contents to a new account at Cantonal Bank, that defendant AMIR ZAVIEH should only transfer Swiss Francs from UBS to Cantonal Bank so as to ensure that evidence of the transfer would stay within Switzerland.

48. In or around January 2009, defendant AMIR ZAVIEH closed his undeclared account at UBS and transferred the contents to Cantonal Bank.

49. In or around January 2009, at a meeting with Renzo Gadola and Swiss Banker S.L. in Zurich, Switzerland, defendant AMIR ZAVIEH opened an undeclared account under the name "Allen Zavieh" at Cantonal Bank.

50. In or around January 2009, defendant AMIR ZAVIEH executed documents granting to Martin Lack a power of attorney over defendant AMIR ZAVIEH's undeclared account at Cantonal Bank.

51. In or around February 2009, defendant AMIR ZAVIEH met with Renzo Gadola in San Francisco, California, to discuss defendant AMIR ZAVIEH's undeclared account at Cantonal Bank.

52. On or about March 19, 2009, defendant AMIR ZAVIEH sent an email to Renzo Gadola requesting that Martin Lack fax to defendant AMIR ZAVIEH in the United States

a copy of a bank statement for his undeclared account at Cantonal Bank for the period ending March 31, 2009.

53. On or about June 10, 2010, as part of an ongoing dialogue about UBS's disclosure to the IRS of information related to defendant AMIR ZAVIEH's undeclared account at UBS, defendant AMIR ZAVIEH sent Renzo Gadola an email that stated:

At some point in time IF they come after me, I will fight it tooth and nail. What is also interesting or perhaps appalling is that the laws of a country and its tradition is being broken to save a bank's ass for selling out its own clients who have been trusting and feeding them for years!

54. In or around June 2010, Martin Lack transferred management of defendant AMIR ZAVIEH's undeclared account at Cantonal Bank to Swiss Financial Advisor M.B. as defendant AMIR ZAVIEH refused to provide Martin Lack with a Form W-9, identifying defendant AMIR ZAVIEH as the owner of the account and subject to U.S. taxation.

55. In or around June 2010, Renzo Gadola informed defendant AMIR ZAVIEH that Swiss Financial Advisor M.B. would manage defendant AMIR ZAVIEH's undeclared account at Cantonal Bank and would not require defendant AMIR ZAVIEH to execute a Form W-9 that would inform the bank that AMIR ZAVIEH was the beneficial owner of the account and subject to U.S. taxation.

56. In or around June 2010, defendant AMIR ZAVIEH fabricated a false story regarding the ownership of the assets in the undeclared account at Cantonal Bank

57. On or about November 22, 2010, during a phone call with Renzo Gadola in the Southern District of Florida that was recorded by law enforcement agents, defendant AMIR ZAVIEH stated that he:

had some legal questions about my account with the bank which I am, that's why I'm going to Zurich, I plan on meeting you [Swiss Financial Advisor M.B.]. . . if I drop dead, what does [Cantonal Bank] do? And secondly, I want to know if my sister can be on the account or as far as the IRS I told you I don't give a damn if they come after me, I said look, this is my position the account was fucked up by UBS I have no liability and the money belongs to the family and I have a lot of problems in Iran because we've got property, so I can drag this for another ten years, and by then my life may go off, I don't know.

58. On or about July 15, 2011, defendant AMIR ZAVIEH made a false statement to a federal law enforcement agent in Deerfield Beach, Florida, in that defendant AMIR ZAVIEH left a voice mail message in which he claimed that he was not the owner of the undeclared accounts at UBS and Cantonal Bank but that he merely had signature authority over the accounts.

59. On or about July 30, 2011, defendant AMIR ZAVIEH made a false statement to a federal law enforcement agent in Deerfield Beach, Florida, in that defendant AMIR ZAVIEH sent an e-mail in which he denied that he was the owner of the undeclared account held in his name at Cantonal Bank but claimed that he was "a constructive trustee for [his] family in IRAN."

60. On or about August 1, 2011, defendant AMIR ZAVIEH made a false statement to a federal law enforcement agent in Deerfield Beach, Florida, in that defendant AMIR ZAVIEH called the agent and claimed that he was not the beneficial owner of the undeclared account at Cantonal Bank but that he merely had signature authority over the account.

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

A TRUE BILL.


WIFREDO A. FERRER
UNITED STATES ATTORNEY


BERTHA MITRANI
ASSISTANT U.S. ATTORNEY


KEVIN M. DOWNING
SENIOR TRIAL ATTORNEY
MARK F. DALY
MICHELLE M. PETERSEN
TRIAL ATTORNEYS