

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA,

:

SEALED

INDICTMENT

-v.-

:

14 Cr. ____ (____)

PETER CANALE,

:

14 CRIM 713

Defendant.

:

- - - - -X

COUNT ONE
(Conspiracy)

The Grand Jury charges:

Relevant Persons and Entities

1. At all times relevant to this Indictment, PETER CANALE ("CANALE"), the defendant, was a citizen and resident of the United States. CANALE, who previously lived, among other places, in Manhattan, New York, currently resides in Kentucky.
2. At all times relevant to this Indictment, Michael Canale, a co-conspirator not named as a defendant herein, was a citizen and resident of the United States. PETER CANALE, the defendant, and Michael Canale are brothers.
3. At all times relevant to this Indictment, a relative of PETER CANALE, the defendant, and Michael Canale (the "Relative"), a co-conspirator not named as a defendant herein, was a citizen and resident of the United States. The Relative died in or about 2000.

4. At all times relevant to this Indictment, Beda Singenberger ("Singenberger"), a co-conspirator not named as a defendant herein, was a citizen and resident of Switzerland. Singenberger owned, operated, and controlled a financial advisory firm called Sinco Treuhand AG ("Sinco"). Sinco maintained its principal place of business in Zurich, Switzerland. Acting directly and indirectly through Sinco and its employees, Singenberger provided wealth management and tax advice to individuals around the world, including to United States taxpayers.

5. At all times relevant to this Indictment, UBS AG ("UBS") was a corporation organized under the laws of Switzerland. UBS, directly and through its subsidiaries, operated a global financial services business. Among other things, UBS provided banking, wealth management, and asset management services to individuals and entities around the world, including to United States taxpayers.

6. At all times relevant to this Indictment, Hans Thomann ("Thomann"), a co-conspirator not named as a defendant herein, was a citizen and resident of Switzerland. From in or about 1993 until at least in or about 2003, Thomann was a client advisor at UBS. From in or about 2003 until at least in or about 2010, Thomann was a client advisor at a series of asset

management firms based in Switzerland (collectively, the "Swiss Asset Managers").

7. At all times relevant to this Indictment, Wegelin & Co. ("Wegelin") was a bank organized under the laws of Switzerland with its headquarters in St. Gallen, Switzerland. Wegelin provided private banking, asset management, and other services to individuals and entities around the world, including to United States taxpayers.

8. At all times relevant to this Indictment, Swiss Bank A was a bank organized under the laws of Switzerland with its headquarters in Zurich, Switzerland. Swiss Bank A provided private banking, asset management, and other services to individuals and entities around the world, including to United States taxpayers.

**Obligations of United States Taxpayers
With Respect to Foreign Financial Accounts**

9. Citizens and residents of the United States who have income in any one calendar year in excess of a threshold amount ("U.S. taxpayers") are obligated to file a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), for that calendar year with the United States Internal Revenue Service (the "IRS"). At all times relevant to this Indictment, Form 1040 required U.S. taxpayers to report their income from any source, regardless of whether the source of their income was

inside or outside the United States. In addition, on Schedule B of Form 1040, the filer must indicate whether "at any time during [the relevant calendar year]" the filer had "an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account." If the U.S. taxpayer answers that question in the affirmative, then the U.S. taxpayer must indicate the name of the particular country in which the account is located.

10. Separate and apart from the obligation to file Forms 1040 that include all worldwide income, U.S. taxpayers who have a financial interest in, or signature authority over, a financial account in a foreign country with an aggregate value of more than \$10,000 at any time during a particular calendar year are required to file with the IRS a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 ("FBAR"). The FBAR for any calendar year is required to be filed on or before June 30 of the following calendar year. In general, the FBAR requires that the U.S. taxpayer filing the form identify the financial institution at which the financial account is held, the type of account (bank, securities, or other), the account number, and the maximum value of the account during the calendar year for which the FBAR is being filed.

11. An "undeclared account" is a financial account maintained outside the United States and beneficially owned or otherwise controlled by a U.S. taxpayer, but that is not disclosed to the IRS on Schedule B of Form 1040 or on an FBAR, and the income generated in which was not reported to the IRS on Form 1040.

The Conspiracy

12. From at least in or about 1993 through in or about at least April 2011, PETER CANALE, the defendant, conspired with others, known and unknown, to establish and maintain undeclared bank accounts in Switzerland, and to hide those accounts, and the income generated in those accounts, from the taxation authority of the United States, the IRS, through various means, including through the filing of false and fraudulent federal income tax returns.

Means and Methods of the Conspiracy

13. Among the means and methods by which PETER CANALE, the defendant, and his co-conspirators would and did carry out the conspiracy were the following:

a. The Relative, PETER CANALE, and Michael Canale, working with Thomann, Singenberger, and others, opened and maintained undeclared accounts at banks in Switzerland.

b. PETER CANALE and Michael Canale, working with Singenberger and others, used sham entities to conceal from

the IRS and others their ownership of accounts established in Switzerland.

c. PETER CANALE and Michael Canale filed, and caused to be filed, false and fraudulent Forms 1040, which, among other things, failed to report their interest in their undeclared accounts and the income generated in their undeclared accounts.

d. PETER CANALE and Michael Canale failed to file FBARS identifying their undeclared accounts.

**The Undeclared Accounts of the Defendant and His
Co-Conspirators, Including at Wegelin and Swiss Bank A**

14. Beginning in or about at least the early 1990s, the Relative maintained an undeclared account at a predecessor firm of UBS.

15. In or about November 1993, the Relative executed written instructions indicating how the Relative sought to have his assets held in an account at the UBS predecessor firm distributed upon his death (the "Distribution Instructions"). The Distribution Instructions indicated, in substance and in part, that, among others, PETER CANALE, the defendant, was to receive a substantial portion of the assets held in the Relative's account at the UBS predecessor firm. The Distribution Instructions further indicated, in substance and in part, that they would form part of the Relative's last will and

testament, but would not be "probated together with [his] Last Will and Testament" nor made public.

16. Prior to in or about July 2000, the Relative introduced PETER CANALE, the defendant, to Thomann in Manhattan, New York, where they discussed the Relative's undeclared account.

17. In or about July 2000, the Relative died.

18. In or about late 2000 or 2001, PETER CANALE, the defendant, and Michael Canale, met with Thomann at a hotel in Manhattan, New York. During that meeting, Thomann introduced PETER CANALE and Michael Canale to Beda Singenberger, who was also present. During the meeting, Thomann and Singenberger discussed with PETER CANALE and Michael Canale the continued maintenance of the assets that the two brothers inherited from the Relative. Thomann, working with Singenberger, would continue to maintain the assets in an undeclared account in Switzerland for the benefit of PETER CANALE and Michael Canale.

19. In or about June 2005, PETER CANALE, the defendant, met with Singenberger in Miami, Florida. At or about that time, CANALE entered into an agreement with Sinco, whereby Sinco was appointed to administer a foundation formed for the benefit of CANALE under the laws of Liechtenstein called the Janara Foundation, which foundation Singenberger had formed or was then in the process of forming (the "Janara Agreement").

20. In or about July 2005, PETER CANALE, the defendant, opened, and caused to be opened, an undeclared account at Wegelin. CANALE did so with the assistance of Singenberger. The undeclared account at Wegelin was opened in the name of the Janara Foundation. At the time of the opening of the Janara Foundation account at Wegelin, Singenberger identified CANALE as the beneficial owner of the assets held in the Janara Foundation account at Wegelin and provided, and caused to be provided, a copy of CANALE's United States passport to Wegelin. Pursuant to the Wegelin account-opening documents that were executed, Singenberger and Sinco were permitted to act on behalf of the Janara Foundation.

21. Previously, in or about September 2003, Michael Canale, the brother of PETER CANALE, the defendant, opened, and caused to be opened, an undeclared account at Wegelin. Michael Canale also did so with the assistance of Singenberger. The undeclared account at Wegelin for Michael Canale was opened in the name of the Wanderlust Foundation. At the time of the opening of the Wanderlust Foundation account at Wegelin, Singenberger identified Michael Canale as the beneficial owner of the assets held in that account and provided, and caused to be provided, a copy of Michael Canale's United States passport to Wegelin. Pursuant to the Wegelin account-opening documents

that were executed, Singenberger and Sinco were permitted to act on behalf of the Wanderlust Foundation.

22. On or about December 31, 2009, the Janara Foundation account at Wegelin held assets valued at approximately \$788,920.

23. On or about December 31, 2009, the Wanderlust Foundation account at Wegelin held assets valued at approximately \$1,532,847.

24. In or about May 2010, Singenberger, acting under the authority given to him by PETER CANALE, the defendant, and Michael Canale, opened, and caused to be opened, undeclared accounts at Swiss Bank A for PETER CANALE and Michael Canale. The undeclared account at Swiss Bank A for PETER CANALE was opened in the name of the Janara Foundation. The undeclared account for Michael Canale was opened in the name of the Wanderlust Foundation. At the time of the opening of the Janara Foundation account and the Wanderlust Foundation account at Swiss Bank A, Singenberger identified PETER CANALE and Michael Canale as the respective beneficial owners of these accounts. Pursuant to the Swiss Bank A account-opening documents that were executed, Singenberger and Sinco were permitted to act on behalf of the Janara Foundation and the Wanderlust Foundation.

25. On or about May 19, 2010, a representative of Sinco directed Wegelin to transfer all of the assets and account

balances held in the Janara Foundation account and the Wanderlust account to specified accounts at Swiss Bank A.

26. On or about October 31, 2010, the Janara Foundation account at Swiss Bank A held assets valued at approximately \$718,143.

27. On or about December 31, 2010, the Wanderlust Foundation account at Swiss Bank A held assets valued at approximately \$1,437,980.

The False Tax Returns and Failure to File FBARs

28. For each of the calendar years from at least 2007 through 2010, PETER CANALE, the defendant, filed and caused to be filed with the IRS a U.S. Individual Income Tax Return, Form 1040. On each of these returns, CANALE knowingly and willfully failed to report as income dividends, interest, and other income received by CANALE in one or more bank, securities, and other financial accounts at Wegelin and Swiss Bank A. On Schedule B attached to each of these returns, CANALE knowingly and willfully failed to disclose that CANALE had an interest in and signature and other authority over a financial account in Switzerland, when, in truth and in fact, and as CANALE then and there well knew, CANALE had an interest in and signature authority over a financial account in Switzerland.

29. For each of the calendar years from at least 2007 through 2010, Michael Canale filed and caused to be filed with

the IRS a U.S. Individual Income Tax Return, Form 1040. On each of these returns, Michael Canale knowingly and willfully failed to report as income dividends, interest, and other income received by Michael Canale in one or more Swiss banks. On Schedule B attached to each of these returns, Canale knowingly and willfully failed to disclose that Canale had an interest in or authority over a financial account in Switzerland, when, in truth and in fact, and as Michael Canale then and there well knew, Michael Canale had an interest in and authority over a financial account in Switzerland.

30. For each of the calendar years from at least 2007 through 2010, PETER CANALE, the defendant, failed to file with the IRS an FBAR disclosing his signatory and other authority over his accounts at Wegelin and, later, Swiss Bank A.

31. For each of the calendar years from at least 2007 through 2010, Michael Canale failed to file with the IRS an FBAR disclosing his authority over his accounts at Wegelin and, later, Swiss Bank A.

Statutory Allegation

32. From at least in or about 1993 through in or about at least 2011, in the Southern District of New York and elsewhere, PETER CANALE, the defendant, together with the Relative, Michael Canale, Beda Singenberger, Hans Thomann, and others known and unknown, willfully and knowingly did combine,

conspire, confederate, and agree together and with each other, to defraud the United States of America and an agency thereof, to wit, the IRS, and to commit offenses against the United States, to wit, violations of Title 26, United States Code, Sections 7201 and 7206(1).

33. It was a part and an object of the conspiracy that PETER CANALE, the defendant, with others known and unknown, willfully and knowingly would and did defraud the United States of America and the IRS for the purpose of impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, to wit, federal income taxes.

34. It was further a part and an object of the conspiracy that PETER CANALE, the defendant, together with others known and unknown, willfully and knowingly would and did attempt to evade and defeat a substantial part of the income tax due and owing to the United States of America, in violation of Title 26, United States Code, Section 7201.

35. It was further a part and an object of the conspiracy that PETER CANALE, the defendant, together with others known and unknown, willfully and knowingly would and did make and subscribe returns, statements, and other documents, which contained and were verified by written declarations that they were made under the penalties of perjury, and which CANALE,

together with others known and unknown, did not believe to be true and correct as to every material matter, in violation of Title 26, United States Code, Section 7206(1).

Overt Acts

36. In furtherance of the conspiracy and to effect the illegal objects thereof, PETER CANALE, the defendant, and his co-conspirators committed and caused to be committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about late 1993, in the Southern District of New York, the Relative executed the Distribution Instructions.

b. In or about late 1993, in the Southern District of New York, Michael Canale counter-executed the Distribution Instructions.

c. In or about a time before 2000, the Relative, Hans Thomann, and PETER CANALE, the defendant, met in Manhattan, New York, to discuss the Relative's undeclared account.

d. In or about late 2000 or 2001, following the Relative's death, PETER CANALE, the defendant, met with Michael Canale, Hans Thomann, and Beda Singenberger in Manhattan, New York to discuss Thomann and Singenberger continuing to maintain

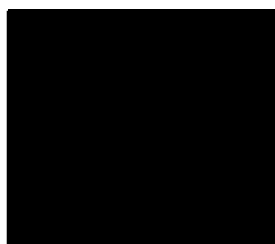
in an undeclared account in Switzerland the assets that PETER CANALE and Michael Canale inherited from the Relative.

e. In or about 2005, PETER CANALE, the defendant, and Michael Canale met with Beda Singenberger in Miami, Florida to discuss the maintenance of undeclared accounts in Switzerland for PETER CANALE and Michael Canale.

f. In or about the early to mid 2000's, Michael Canale met with Beda Singenberger in Manhattan, New York, to discuss his undeclared account.

g. In or about March 2010, PETER CANALE, the defendant, filed, and caused to be filed, tax returns for 2009 that falsely and fraudulently claimed that CANALE did not maintain an interest in or signature or other authority over a financial account in a foreign country during 2009.

(Title 18, United States Code, Section 371.)



Preet Bharara
PREET BHARARA
United States Attorney

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Defendant.

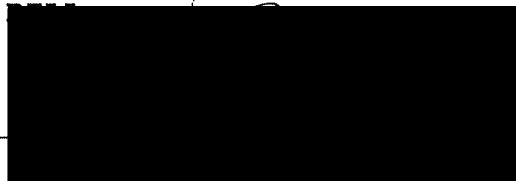
SEALED INDICTMENT

14 Cr. ____ (____).

(Title 18, United States Code,
Section 371.)

PREET BHARARA
United States Attorney.

A TRUE



Foreperson.
