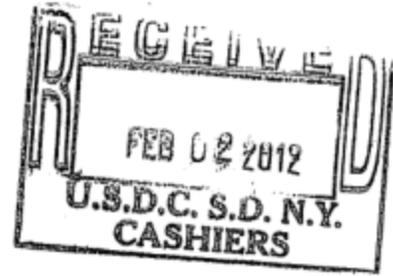


12 CV 0836

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Southern District of New York  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

-v.- :

12 Civ.

ALL FUNDS ON DEPOSIT AT UBS AG, :

VERIFIED COMPLAINT

ACCOUNT NO. [REDACTED] :

HELD IN THE NAME OF WEGELIN & CO., :

Defendants *in rem.* :

----- -X

Plaintiff United States of America, by its attorney,  
PREET BHARARA, United States Attorney for the Southern District  
of New York, for its Verified Complaint alleges, upon information  
and belief, as follows:

I. NATURE OF THE ACTION

1. This an action by the United States of America  
seeking forfeiture of all funds, approximately \$16.2 million, on  
deposit at UBS AG, Account No. [REDACTED] held in the  
name of Wegelin & Co. (the "Defendant Funds"). The Defendant  
Funds are subject to forfeiture pursuant to 18 U.S.C. §  
981(a)(1)(A), as property involved in transactions in violation  
of 18 U.S.C. § 1956.

2. The Internal Revenue Service, Criminal Investigation ("IRS-CI") has conducted an investigation regarding a conspiracy among Wegelin & Co. ("Wegelin"), more than 100 U.S. taxpayer-clients of Wegelin, and others known and unknown to defraud the United States of certain taxes due and owing, among other things, concealing from the Internal Revenue Service ("IRS") undeclared accounts owned by U.S. taxpayers at Wegelin and other Swiss banks. As set forth below, it was part of this scheme to provide U.S. taxpayer-clients of Wegelin and other Swiss banks who had undeclared accounts in Switzerland access to their undeclared funds in the United States in a manner that obscured the source of these funds, that is, the U.S. taxpayer-clients' undeclared accounts in Switzerland. To promote and further this scheme to defraud, Wegelin and other Swiss banks used Wegelin's correspondent bank account in the United States to launder undeclared funds from Switzerland to U.S. taxpayer-clients in a manner that facilitated the continued concealment of these undeclared accounts from the IRS. The high volume of other transactions and other funds moving in and out of Wegelin's correspondent account contemporaneously with the laundering of these undeclared assets helped to facilitate these money laundering transactions by making their true nature more difficult to detect and to lend these transactions an aura of legitimacy.

## II. JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.

4. Venue is proper pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts and omissions giving rise to the forfeiture took place in the Southern District of New York.

## III. PROBABLE CAUSE FOR FORFEITURE

### Background

#### Wegelin Bank and Its Co-Conspirators

5. At all times relevant to this Complaint, Wegelin was a Swiss private bank with offices only in Switzerland. Its headquarters were located in the city of St. Gallen. Wegelin provided private banking, asset management, and other services to individuals and entities around the world, including U.S. taxpayers in the Southern District of New York. Wegelin provided these services through "client advisors" based in its various branches in Switzerland ("Client Advisors"). Wegelin was principally owned by a small group of managing partners ("Managing Partners") and was governed by an executive committee that included the Managing Partners (the "Executive Committee"). Wegelin did not maintain an office or branch in the United States, but it directly accessed the U.S. banking system through a correspondent bank account, Account No. 101-WA-358967-000, held

at UBS AG ("UBS") in Stamford, Connecticut (the "Stamford Correspondent Account").

6. From at least in or about 2008 up through and including at least in or about 2010, Michael Berlinka ("Berlinka") worked as a Client Advisor at Wegelin's Zurich branch (the "Zurich Branch").

7. From at least in or about 2006 up through and including in or about 2010, Urs Frei ("Frei") worked as a Client Advisor at Wegelin's Zurich Branch.

8. From at least in or about 2007 up through and including in or about 2010, Roger Keller ("Keller"), worked as a Client Advisor at Wegelin's Zurich Branch. When Keller was out of the office and could not communicate with, or provide services to his U.S. taxpayer-clients, Frei served as his backup, and vice versa.

9. On or about January 3, 2012, Keller, Frei, and Berlinka were indicted by a federal grand jury in the Southern District of New York for conspiring to defraud the United States of America and an agency thereof, the IRS, and to commit offenses against the United States, to wit, violations of Title 26, United States Code, Sections 7206(1) and 7201. See United States v. Berlinka, et al., 12 Cr. 2 (JSR) (attached hereto as Exhibit A and incorporated by reference herein).

10. From in or about 2005 up through and including in or about 2010, Client Advisor A, a co-conspirator, worked as a Client Advisor at the Zurich Branch. At various times, Client Advisor A also served as the "team leader" of Berlinka, Frei, and Keller, and other Client Advisors of the Zurich Branch. As a team leader, Client Advisor A coordinated certain activities of, but did not supervise, these and other Client Advisors.

11. From in or about 2007 up through and including in or about 2011, Managing Partner A, a co-conspirator, was one of the Managing Partners of Wegelin. From in or about 2005 up through and including in or about 2011, Managing Partner A was the head of Wegelin's Zurich Branch. During that period, Managing Partner A supervised Berlinka, Frei, and Keller, Client Advisor A, and other Client Advisors in the Zurich Branch with respect to, among other things, the opening and servicing of "undeclared accounts" for U.S. taxpayers. Undeclared accounts are bank and securities accounts for U.S. taxpayers in which the assets, and the income generated in them, were not reported by the U.S. taxpayers to the taxation authority of the United States, the IRS.

12. From in or about 2008 up through and including in or about 2012, Executive A, a co-conspirator, was a member of the Executive Committee of Wegelin. At all times relevant to this Complaint, Executive A worked primarily at the Zurich Branch.

13. At all times relevant to this Complaint, Beda Singenberger ("Singenberger"), a co-conspirator, owned, operated, and controlled an investment advisory business based in Zurich called Sinco Treuhand AG ("Sinco Trust"). Beginning at least in or about 2000, Singenberger, through Sinco Trust, served as an independent asset manager for various U.S. taxpayers who held undeclared accounts at Wegelin, UBS, and other Swiss banks. Singenberger helped U.S. taxpayers hide such accounts, and the income generated therein, by, among other things, creating sham corporations and foundations for U.S. taxpayers as vehicles through which the U.S. taxpayers could hold their undeclared accounts at UBS, Wegelin, and other Swiss private banks, and by serving as the asset manager for U.S. taxpayers who held undeclared accounts at these banks. From at least in or about 2002 to in or about 2006, Singenberger regularly traveled to the Southern District of New York and other places in the United States to meet with his U.S. taxpayer-clients with undeclared accounts at UBS, Wegelin, and other Swiss private banks.

14. From in or about the mid-1990s up through and including in or about late 2008, Gian Gisler ("Gisler"), a co-conspirator, worked as a client advisor at UBS in Switzerland. From in or about early 2009 up through and including in or about mid to late 2009, Gisler served as an independent asset manager at a Swiss asset management firm ("Swiss Asset Manager A") for

U.S. taxpayers who held undeclared accounts at Wegelin, UBS, and other Swiss banks. Gisler managed and/or assisted in opening at least seven undeclared accounts for U.S. taxpayers at Wegelin. At all times relevant to this Complaint, Swiss Asset Manager A did not maintain an office in the United States.

15. At all times relevant to this Complaint, Swiss Bank C and Swiss Bank D were other banks in Switzerland that held undeclared accounts for U.S. taxpayers. As set forth more fully below, Swiss Bank C and Swiss Bank D used Wegelin's correspondent account to provide its U.S. taxpayer-clients access to their undeclared funds.

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

16. At all times relevant to this Indictment, citizens and residents of the United States who had income in any one calendar year in excess of a threshold amount ("U.S. taxpayers") were required to file a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), for that calendar year with the IRS. On Form 1040, U.S. taxpayers were obligated to report their worldwide income, including income earned in foreign bank accounts. In addition, when a U.S. taxpayer completed Schedule B of Form 1040, he or she was required to 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," and if so, the U.S. taxpayer was required to name the country.

17. In addition, U.S. taxpayers who had a financial interest in, or signature or other authority over a foreign bank account with an aggregate value of more than \$10,000 at any time during a particular calendar year were required to file with the IRS a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 ("FBAR") on or before June 30 of the following year. In general, the FBAR required that the U.S. taxpayer filing the form identify the financial institution with which the financial account was held, the type of account (either bank, securities, or other), the account number, and the maximum value of the account during the calendar year for which the FBAR was being filed.

**The Nature and Risks of Correspondent Banking  
and Wegelin's Correspondent Account at UBS**

18. As reported in a 2001 investigative report published by the Minority Staff of the Senate Permanent Subcommittee on Investigations entitled Correspondent Banking: A Gateway For Money Laundering:

Correspondent banking is the provision of banking services by one bank to another bank. It is a lucrative and important segment of the banking industry. It enables banks to conduct business and provide services for their customers in jurisdictions where the banks have no physical presence. For example, a bank that is licensed in a foreign country and has no office in the United States may want to provide certain services in the United States for its customers in order [to] attract or retain the business of important clients with U.S. business activities. Instead of bearing the costs of licensing, staffing and operating its own offices in the United States, the bank might open a correspondent account with an existing U.S. bank. By establishing such a relationship, the foreign bank, called a respondent, and through it, its customers, can receive many or all of the services offered by the U.S. bank, called the correspondent.

Today, banks establish multiple correspondent relationships throughout the world so they may engage in international financial transactions for themselves and their clients in places where they do not have a physical presence. Many of the largest international banks located in the major financial centers of the world serve as correspondents for thousands of other banks. Due to U.S. prominence in international trade and the high demand for U.S. dollars due to their overall stability, most foreign banks that wish to provide international services to their customers have accounts in the United States capable of transacting business in U.S. dollars. Those that lack a physical presence in the U.S. will do so through correspondent accounts, creating a large market for those services.

Correspondent Banking: A Gateway For Money Laundering (Feb. 2001).

19. Because foreign financial institutions may not be subject to oversight by U.S. regulatory authorities, providing these foreign financial institutions access to the U.S. financial system through the correspondent banking system increases the risk of money laundering. In order to combat these risks, among other means, Federal Financial Institutions Examination Council ("FFIEC") publishes The Bank Secrecy Act/Anti-Money Laundering Handbook (the "Handbook"), a publication that helps identify money-laundering risks and establishes guidelines for U.S. financial institutions to mitigate those risks. In terms of correspondent accounts, the Handbook explains their inherent money-laundering risk and how criminal elements such as drug traffickers have used them to launder funds. The Handbook further explains:

Because of the large amount of funds, multiple transactions, and the U.S. bank's potential lack of familiarity with the foreign correspondent financial institution's customer, criminals and terrorists can more easily conceal the source and use of illicit funds. Consequently, each U.S. bank, including all overseas branches, offices, and subsidiaries, should closely monitor transactions related to foreign correspondent accounts.

Handbook, Correspondent Accounts (Foreign) – Overview.

20. The Handbook also explains the danger of "nested" foreign correspondent accounts. "Nested accounts occur when a

foreign financial institution gains access to the U.S. financial system by operating through a U.S. correspondent account belonging to another foreign financial institution." These nested accounts pose a further money-laundering risk because they provide additional foreign financial institutions access to the U.S. financial system and make it more difficult to identify the source and nature of the funds being sent to or from a correspondent account at a U.S. financial system.

21. Because of the heightened risk of money laundering through correspondent accounts, the U.S.A. Patriot Act and related regulations impose certain obligations on U.S. financial institutions housing correspondent accounts for foreign financial institutions to guard against money laundering. As explained in the Handbook:

Due diligence policies, procedures, and controls must include each of the following:

- Determining whether each such foreign correspondent account is subject to [Enhanced Due Diligence].
- Assessing the money laundering risks presented by each such foreign correspondent account.
- Applying risk-based procedures and controls to each such foreign correspondent account reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the correspondent account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.

Handbook, Foreign Correspondent Account Recordkeeping and Due Diligence – Overview.

22. Since at least the late 1990s, Wegelin has had a correspondent bank account with UBS in Stamford, Connecticut. Through this correspondent relationship, Wegelin could wire funds from Switzerland to the Stamford Correspondent Account in the United States and, in turn, wire funds from the Stamford Correspondent Account to other accounts in the United States or to accounts overseas. Wegelin also had the ability to issue checks drawn on the Stamford Correspondent Account. These checks functioned like any check drawn on an account at a U.S. financial institution and could be deposited, or cashed for U.S. dollars, at other financial institutions.

23. Wegelin also offered nested correspondent services to other Swiss banks, including Swiss Bank C and Swiss Bank D, two Swiss banks that also held undeclared accounts for U.S. taxpayers. These additional Swiss banks were able to have Wegelin issue checks drawn on the Stamford Correspondent Account on their behalf. Swiss Bank C used this nested relationship, despite the fact that Swiss Bank C maintained its own correspondent account with UBS in the United States, which allowed it to conduct wire transactions in the United States, but did not include check-writing abilities.

Overview of Wegelin and Its Co-Conspirators' Mail  
and Wire Fraud Scheme to Defraud the United States

24. From at least in or about 2005 up through and including in or about 2011, more than 100 U.S. taxpayer-clients of Wegelin and other Swiss banks, conspired with, at various times, Wegelin and many of Wegelin's employees, including Berlinka, Frei, Keller, Managing Partner A, Executive A, Client Advisor A, other Client Advisors at Wegelin, Swiss Bank C and Swiss Bank D, and others known and unknown, to defraud the United States of certain taxes due and owed by concealing from the IRS undeclared accounts owned by U.S. taxpayers at Wegelin and other Swiss Banks including Swiss Bank C and Swiss Bank D. As of in or about 2010, the total value of such undeclared accounts at Wegelin alone was at least \$1.2 billion. In particular, Client Advisors at Wegelin, including Berlinka, Frei, and Keller, and others opened dozens of new undeclared Wegelin accounts for U.S. taxpayers in or about 2008 and 2009 after UBS and another large international bank based in Switzerland ("Swiss Bank B") closed their businesses servicing undeclared accounts for U.S. taxpayers ("the U.S. cross-border banking businesses") in the wake of widespread news reports in Switzerland and the United States that the U.S. Department of Justice was investigating UBS for helping U.S. taxpayers evade taxes and hide assets in Swiss bank accounts. These Client Advisors did so after the Managing Partners, including Managing Partner A, affirmatively decided to

take advantage of the flight of U.S. taxpayer-clients from UBS by opening new undeclared accounts for these U.S. taxpayers at Wegelin. As a result of this influx of former UBS U.S. taxpayer-clients into Wegelin, Wegelin's undeclared U.S. taxpayer assets under management, and the fees earned by managing those assets, increased substantially. As part of their sales pitch to U.S. taxpayer-clients who were fleeing UBS, at various times, client advisors at Wegelin told U.S. taxpayer-clients that their undeclared accounts at Wegelin would not be disclosed to the United States authorities because Wegelin had a long tradition of bank secrecy and, unlike UBS, did not have offices outside Switzerland, thereby making Wegelin less vulnerable to United States law enforcement pressure. Managing Partner A and another executive of Wegelin participated in some of these meetings. At various times, Berlinka, Frei, and Keller collectively managed undeclared U.S. taxpayer assets worth hundreds of millions of dollars. As part of the scheme to defraud, Wegelin, Swiss Bank C, and Swiss Bank D provided U.S. taxpayer-clients with undeclared accounts access to funds in these undeclared accounts in a manner that obscured the source of these funds, that is, the U.S. taxpayer-clients' undeclared accounts in Switzerland. Also as part of this scheme, these U.S. taxpayer-clients, used the U.S. mails, private and commercial interstate carriers, and interstate wire communications to submit tax returns that were

materially false and fraudulent in that these returns failed to disclose these undeclared accounts or the income generated from these accounts.

Means and Methods of the Conspiracy

25. Among the means and methods by which Wegelin and its co-conspirators carried out the conspiracy were the following:

a. Client Advisors at Wegelin opened and serviced undeclared accounts for U.S. taxpayers for the purpose of helping the U.S. taxpayers hide assets and income from the IRS.

b. Client Advisors at Wegelin opened and serviced undeclared accounts for U.S. taxpayer-clients in the name of sham corporations and foundations formed under the laws of Liechtenstein, Panama, Hong Kong, and other jurisdictions for the purpose of concealing the identities of the beneficial owners of those accounts -- that is, their U.S. taxpayer-clients -- from the IRS.

c. Client Advisors at Wegelin knowingly received and retained at Wegelin documents that falsely declared that such sham entities were the beneficial owners of certain accounts, when the client advisors knew that U.S. taxpayer-clients beneficially owned such accounts.

d. Client Advisors at Wegelin permitted certain U.S. taxpayers to open and maintain undeclared accounts at Wegelin using code names and numbers (so-called "numbered accounts") so that the identities of the U.S. taxpayer-clients would appear on a minimal number of bank documents in the event that documents or databases were stolen from Wegelin or otherwise fell into the hands of third parties.

e. Client Advisors at Wegelin ensured that account statements and other mail for their U.S. taxpayer-clients were not mailed to them in the United States.

f. Client Advisors at Wegelin sent e-mails and Federal Express packages to potential U.S. taxpayer-clients in the United States to solicit new private banking and asset management business.

g. At various times from in or about 2005 up through and including in or about 2007, Client Advisors at Wegelin communicated by e-mail and/or telephone with U.S. taxpayer-clients who had undeclared accounts at Wegelin. Client Advisors sometimes used their personal e-mail accounts to communicate with U.S. taxpayers to reduce the risk of detection by law enforcement authorities.

h. Wegelin opened undeclared accounts for U.S. taxpayers referred to them by, and whose account opening

paperwork was completed by, an investment advisor in Manhattan and a lawyer in Los Angeles, California.

i. Beginning in or about late 2008 or early 2009, after Wegelin began to open new undeclared accounts for U.S. taxpayers whose accounts were being closed by UBS, Managing Partner A instructed Wegelin Client Advisors of the Zurich Branch not to communicate with their U.S. taxpayer-clients by telephone or e-mail, and instead to cause their U.S. taxpayer-clients to travel from the United States to Switzerland to conduct business relating to their undeclared accounts.

j. Berlinka advised U.S. taxpayer-clients not to voluntarily disclose undeclared accounts to the IRS and assured them that their Wegelin account information would not be disclosed to United States authorities.

k. Wegelin, Swiss Bank C, and Swiss Bank D provided U.S. taxpayer-clients with undeclared accounts access to, and use of, the funds in these undeclared accounts in manner that helped U.S. taxpayer-clients keep these undeclared accounts concealed and continue to avoid paying taxes due and owed from the income generated in these accounts.

l. Various U.S. taxpayer-clients of Wegelin and other Swiss banks, including Swiss Bank C and Swiss Bank D, utilizing the mails and wires, filed Forms 1040 that falsely and fraudulently failed to report the existence of, and the income

generated from, their undeclared Wegelin accounts; evaded substantial income taxes due and owing to the IRS, thus defrauding the IRS of these funds; and failed to file FBARS identifying their undeclared accounts.

**Wegelin Solicited New Undeclared  
Accounts Through a Third-Party Website**

26. From in or about 2005 up through and including in or about 2009, Wegelin solicited new business from U.S. taxpayers wishing to open undeclared accounts in Switzerland by recruiting clients through the third-party website "SwissPrivateBank.com." As of on or about July 2, 2007, this website advertised "Swiss Numbered Bank Account[s]" and "Swiss Anonymous Bank Account[s]", among other things. Specifically, the website stated:

Swiss banking laws are very strict and it is illegal for a banker to reveal the personal details of an account number unless ordered to do so by a judge.

This is long established in Swiss law. Any banker who reveals information about you without your consent risks a custodial sentence [sic] if convicted, with the only exceptions to this rule concerning serious violent crimes.

Swiss banking secrecy is not lifted for tax evasion. The reason for this is because failure to report income or assets is not considered a crime under Swiss banking law. As such, neither the Swiss government, nor any other government, can obtain information about your bank account. They must first convince a Swiss judge that you have committed a serious crime punishable by the Swiss Penal Code.

The website invited users to "[r]equest a Swiss banking consultation today" by clicking a link to a "Consultation

Request" form that asked for information about a user's country of residence, telephone number, and e-mail address. The third-party website operator provided this information to Wegelin Client Advisors, who then sent e-mails from Switzerland to the United States, among other places, promoting Wegelin's private banking and asset management services. In this manner, Wegelin Client Advisors collectively sent more than 100 such e-mails to the United States soliciting new business. In certain cases where U.S. taxpayers responded to such e-mails, Client Advisors sent by Federal Express hard copies of the bank's promotional materials to U.S. taxpayers in the United States. This process eventually resulted in Wegelin obtaining new undeclared accounts holding millions of dollars in total for U.S. taxpayers.

Managing Partner A and other managing partners of Wegelin received quarterly updates on the progress of this advertising program. Managing Partner A approved all payments to the website operator.

27. As a result of this and other business development efforts, the total value of undeclared accounts held by U.S. taxpayers at Wegelin increased substantially over time. As of in or about 2005, Wegelin hid approximately \$240 million in undeclared assets for U.S. taxpayer-clients. By in or about 2010, this amount rose to at least \$1.2 billion.

**Wegelin Opens New Undeclared Accounts  
For U.S. Taxpayers Fleeing UBS**

28. In or about May and June 2008, the United States Government's criminal investigation of UBS's U.S. cross-border banking business became publicly known and received widespread media coverage in Switzerland and the United States. At or about that time, many U.S. taxpayers with undeclared accounts at UBS began to understand that the investigation might result in the disclosure of their identities and UBS account information to the IRS.

29. On or about July 17, 2008, UBS announced that it was closing its U.S. cross-border banking business. Thereafter, UBS client advisors began to notify their U.S. taxpayer-clients that UBS was closing their undeclared accounts. Some UBS client advisors told such clients that they could continue to maintain undeclared accounts at Wegelin and certain other Swiss private banks. At or about that time, it became widely known in Swiss private banking circles that Wegelin was opening new undeclared accounts for U.S. taxpayers.

30. In or about 2008, the Executive Committee of Wegelin, the defendant, including its Managing Partners, affirmatively decided to take advantage of the flight of U.S. taxpayers with undeclared accounts by opening new undeclared accounts for many of them at Wegelin. Thereafter, in or about 2008 and 2009, Wegelin opened new undeclared accounts for at

least 70 U.S. taxpayers. Most of these were opened at Wegelin's Zurich Branch.

31. In or about 2008, Managing Partner A announced this decision to certain personnel of the Zurich Branch. At or about the time of this announcement, another Wegelin executive ("Executive A") stated to personnel of the Zurich Branch that Wegelin was not exposed to the risk of prosecution that UBS faced because Wegelin was smaller than UBS, and that Wegelin could charge high fees to its new U.S. taxpayer-clients because these clients were afraid of prosecution in the United States.

32. At or about the time Managing Partner A announced this decision, Managing Partner A supervised the creation of a list of Client Advisors at the Zurich Branch who were available to meet with potential U.S. taxpayer-clients who walked into the Zurich Branch without an appointment seeking to open new undeclared accounts. Thereafter, in or about 2008 and 2009, Berlinka, Frei, Keller, and other Client Advisors met with many new potential U.S. taxpayer-clients who arrived at Wegelin. In these meetings, Wegelin Client Advisors interviewed the potential U.S. taxpayer-clients about their backgrounds, the sources of their funds, and the amount of money they wished to transfer from UBS to Wegelin, among other things. In many cases, Managing Partner A or Executive A joined these interviews. During these meetings, the U.S. taxpayers typically presented their U.S.

passports for inspection and/or copying; advised that they were U.S. citizens or legal permanent residents of the United States; confirmed that UBS was closing their accounts; and completed certain account opening documents. These documents typically included a standard Swiss banking form called "Form A," which clearly identified the U.S. taxpayer as the beneficial owner of the account. In some cases, as described in more detail below, the Client Advisors sought to reassure their new U.S. taxpayer-clients that Wegelin would not disclose their identities or account information to the IRS.

33. In preparation for these meetings, Managing Partner A and Executive A supervised videotaped training sessions with Client Advisors of Wegelin's Zurich Branch to instruct them on their delivery of certain selling points to be made to U.S. taxpayers fleeing UBS. These selling points included the fact that Wegelin had no branches outside Switzerland and was small, discreet, and, unlike UBS, not in the media.

34. In this manner, Wegelin opened new undeclared accounts for at least 70 U.S. taxpayers. When such accounts were opened, they were designated with a special code that indicated to personnel within Wegelin, among other things, that the accounts were undeclared. At some point in or about 2008 or 2009, the Zurich Branch required that the opening of all new U.S.

taxpayer accounts had to be approved by Managing Partner A or Executive A.

35. From in or about March 2009 up through and including in or about October 2009, approximately 14,000 U.S. taxpayers voluntarily disclosed to the IRS undeclared accounts held at banks around the world, including Wegelin. As part of this process, dozens of U.S. taxpayers requested from Wegelin copies of their account records so that they could fully disclose their accounts to the IRS. Wegelin complied with many of these requests. The records that Wegelin sent to the United States included transaction confirmations and other documents listing the names of many Wegelin Client Advisors, including Berlinka, Frei, and Keller. In response to the expected disclosure of the names of Client Advisors to the IRS through these records, in or about 2009, Managing Partner A announced to certain personnel within the Zurich Branch that the format of certain Wegelin account-related documents would be changed so that the name of the Client Advisor would no longer appear on these documents. On a rolling basis from in or about late 2009 up through and including in or about early 2010, this change was implemented such that the names of the Client Advisors no longer appeared on certain records relating to undeclared accounts held by U.S. taxpayers, and "Team International," or a similar designation, appeared instead.

36. In or about mid-2009, Wegelin stopped opening new undeclared accounts for U.S. taxpayers but did not, at that time, close its existing undeclared U.S. taxpayer accounts. In or about August 2011, Wegelin sent letters to U.S. taxpayer-clients stating that it had "decided to no longer serve US persons" effective December 31, 2011.

37. In or about the end of 2009 or the beginning of 2010, after Wegelin stopped opening new undeclared accounts for U.S. taxpayers, Berlinka and Executive A opened at least three new undeclared accounts for U.S. taxpayers. Each of these U.S. taxpayers had at least two passports -- one from the United States and one from a second country -- and each had recently fled from Swiss Bank A, another Swiss private bank. In each case, Berlinka and Executive A opened the new undeclared account under the passport of the second country, even though Berlinka and Executive A were well aware that the U.S. taxpayer had a U.S. passport.

**Overview of Wegelin and The Conspiracy to Launder Funds Through Wegelin's Correspondent Account to Promote the Mail and Wire Fraud Scheme to Defraud the United States**

38. From at least in or about 2005 up through and including in or about 2011, in order to promote the scheme to defraud described above, Wegelin, Swiss Bank C, Swiss Bank D, and others, known and unknown, used the Stamford Correspondent Account to provide U.S. taxpayer-clients access in the United

States to their undeclared funds held in Switzerland. These international transfers were often executed in a manner that helped conceal or obscure the U.S. taxpayer-clients' relationship with the transferred funds and helped to prevent the detection of the undeclared accounts. Additionally, the large volume of additional funds in the Stamford Correspondent Account, which was knowingly commingled with the laundered funds, and the high volume of transactions in and out of the Stamford Correspondent Account, facilitated this money laundering by making the transactions involving undeclared funds more difficult to detect and lending them an aura of legitimacy. These international transfers of funds from undeclared accounts in Switzerland involving the Stamford Correspondent Account promoted the mail and wire fraud scheme described above in which Wegelin and others conspired with U.S. taxpayer-clients to defraud the United States of the taxes owed from the income generated in the undeclared accounts while at the same time providing the U.S. taxpayer-clients access to, and use of, the funds in their undeclared accounts in a manner that would help conceal the source of their funds, that is, their undeclared accounts in Switzerland.

**Means and Methods of the International  
Money Laundering Conspiracy**

39. Among the means and methods by which Wegelin and its co-conspirators carried out the money laundering conspiracy were the following:

a. Upon request by U.S. taxpayer-clients with undeclared accounts at Wegelin, Swiss Bank C, or Swiss Bank D, Client Advisors at these banks or independent Swiss asset managers would send via private interstate commercial carrier, such as DHL or Federal Express, checks from Switzerland drawn on the Stamford Correspondent Account to U.S. taxpayer-clients in the United States.

b. As an alternative to checks, funds from the U.S. taxpayer-clients were debited from their undeclared accounts in Switzerland and wired to them in the United States through the Stamford Correspondent Account.

c. Rather than one large check or wire for the amount requested, batches of multiple checks or wires in smaller amounts were often sent in order to minimize the risk of scrutiny or detection of the transaction by U.S. financial institutions or government authorities and the discovery of the U.S. taxpayer-clients' undeclared accounts.

d. Checks were sometimes made payable to corporate entities affiliated with the U.S. taxpayer-client or family members of the U.S. taxpayer, rather than the U.S.

taxpayer himself or herself, helping to obscure the relationship between the U.S. taxpayer-client and the undeclared funds.

e. When U.S. taxpayers with undeclared accounts at Swiss banks other than Wegelin, including Swiss Bank C and Swiss Bank D, made requests for funds, they would receive their funds, as described above, through Wegelin's Stamford Correspondent Account.

f. While the checks and wires sent to U.S. taxpayer-clients referenced Wegelin, no reference was made to the account names or numbers of the U.S. taxpayer-clients at Wegelin or other Swiss banks, such as Swiss Bank C and Swiss Bank D.

g. At the request of U.S. taxpayer-clients to their Client Advisors or Swiss asset managers, funds were sent from the Stamford Correspondent Account to third parties who provided goods or services to U.S. taxpayers, thus allowing the U.S. taxpayer the benefit of these undeclared funds in a manner designed to make the source of the funds, that is, a U.S. taxpayer-client's undeclared Swiss account, difficult to detect.

h. These international transfers of undeclared funds were channeled through the Stamford Correspondent Account, the existence of which provided Wegelin access to the U.S. financial system. The undeclared funds sent through the account were knowingly commingled with the other funds present in the Stamford Correspondent Account, helping to essentially cloak

these transactions, veil them in an aura of legitimacy, and render scrutiny of these transactions far less likely.

i. For one U.S. taxpayer-client with both declared and undeclared accounts at Wegelin, Frei asked the U.S. taxpayer-client to allow Frei to wire this U.S. taxpayer-client funds from the client's declared account at Wegelin to the United States for the U.S. taxpayer-client to withdraw as cash. Frei then traveled to the United States, collected the funds and provided those funds to another U.S. taxpayer-client. Frei then credited the first U.S. taxpayer-client's undeclared Wegelin account with that sum.

**U.S. Taxpayers with Undeclared Accounts at  
Wegelin Who Received Laundered Undeclared Funds  
Through the Stamford Correspondent Account**

**Client A**

40. At all times relevant to this Complaint, Client A<sup>1</sup> lived with her husband in Boca Raton, Florida, and became a naturalized citizen in 2003. In or about 1987, Client A became the beneficial owner of an undeclared account at UBS and its predecessor bank; at various times her husband was a joint owner of the account. In or about July 2008, Client A's UBS client advisor, Gian Gisler, advised Client A and her husband that she

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<sup>1</sup> All designations of entities and individuals by number or letter in this Complaint, i.e. "Client A," are consistent with the designations referred to in United States v. Berlinka, et al., 12 Cr. 2 (JSR).

must close her UBS account because she was American. Gisler instructed Client A and her husband not to call UBS from the United States, and told them that he was leaving UBS. Gisler invited Client A to move her account with Gisler to another bank, but she declined. Gisler then recommended Wegelin and noted that it was a reliable bank that had no offices in the United States.

41. In or about September 2008, Client A and her husband traveled to Zurich to close her UBS account. By that time, Gisler had left UBS and Client A had a new UBS client advisor. The new UBS client advisor instructed them not to call from the United States, promised that UBS would not give their information to U.S. authorities, and endorsed Wegelin as a bank at which to hold their account.

42. During the same trip to Zurich in September 2008, Client A and her husband walked to Wegelin and met with Berlinka. Berlinka opened a new undeclared account beneficially owned by Client A using the code name "N1641" on or about September 19, 2008. At that time, Wegelin received, and thereafter maintained in its files, a Form A signed by Client A stating that Client A was the beneficial owner of the account. In addition, Wegelin received and thereafter maintained in its files another form stating that Client A was "a U.S. citizen"; was "the beneficial owner of all income from US sources deposited in the [account] in accordance with US tax law; and "was not entitled to or does not

want to claim any reliefs [sic] from United States Withholding Tax."

43. Berlinka told Client A and her husband that they would be safe at Wegelin and that Berlinka had been instructed not to disclose their account information to United States authorities. In addition, Berlinka instructed Client A and her husband not to call or send faxes to Wegelin from the United States and explained that Wegelin would not send mail to them in the United States.

44. On multiple occasions in or about 2008 and 2009, Client A or her husband called Berlinka from the United States to notify him that they would be traveling to Aruba. Once in Aruba, Client A or her husband called and/or faxed Berlinka to request that he send checks to them in the United States. In response, Berlinka sent checks drawn on the Stamford Correspondent Account from Switzerland to Client A in Boca Raton, Florida by private letter carrier. All the checks, which were payable to Client A, later cleared through the Stamford Correspondent Account with equivalent funds being debited from Client A's account at Wegelin. In addition, the checks were issued in the amount of \$8,500 to help avoid detection of the account by the IRS. The following chart sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, their amount, and the

approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated,<sup>2</sup> as the presence of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Issue | Approximate Date of Negotiation | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|--------------------|----------------------------------|
| 3416          | 11/25/2008                | 1/7/2009                        | \$8,500            | \$88,525,720                     |
| 3417          | 11/25/2008                | 12/24/2008                      | \$8,500            | \$135,195,787                    |
| 3418          | 11/25/2008                | 12/11/2008                      | \$8,500            | \$46,947,570                     |
| 3468          | 1/5/2009                  | 1/30/2009                       | \$8,500            | \$209,111,171                    |
| 3469          | 1/5/2009                  | 2/12/2009                       | \$8,500            | \$143,756,924                    |
| 3470          | 1/5/2009                  | 3/5/2009                        | \$8,500            | \$95,378,847                     |
| 3510          | 2/26/2009                 | 3/10/2009                       | \$8,500            | \$124,995,398                    |
| 3511          | 2/26/2009                 | 4/21/2009                       | \$8,500            | \$65,612,863                     |
| 3512          | 2/26/2009                 | 4/6/2009                        | \$8,500            | \$82,572,902                     |
| 3552          | 4/21/2009                 | 5/8/2009                        | \$8,500            | \$51,668,319                     |
| 3553          | 4/21/2009                 | 5/20/2009                       | \$8,500            | \$94,628,267                     |
| 3554          | 4/21/2009                 | 6/16/2009                       | \$8,500            | \$46,616,379                     |
| 3659          | 8/25/2009                 | 10/26/2009                      | \$8,500            | \$32,206,021                     |
| 3660          | 8/25/2009                 | 3/4/2010                        | \$8,500            | \$66,725,205                     |
| <b>Total:</b> |                           |                                 | <b>\$119,000</b>   |                                  |

45. In addition to the above-described checks, Client A and her husband also received funds in the form of wires from their undeclared Wegelin account through the Stamford Correspondent Account, both in the United States and Aruba. The following chart sets forth the approximate date of these wires, their approximate amount, the recipient (including location) of the moneys wired, and the approximate amount of other funds

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<sup>2</sup> "Balance in Correspondent Account," as reflected in all charts in this Verified Complaint, means the balance in the Stamford Correspondent Account as reflected in account statements for the Stamford Correspondent Account. The transactions for any particular day in the Stamford Correspondent Account are not reflected on the account statements in chronological order for the particular day. Rather, they are organized by credit and debit, and, generally, by the size of a each transaction.

present in the Stamford Correspondent Account on the dates of these wires, as the presence of these additional funds helped to conceal the nature of these transactions and lend them an aura of legitimacy:

| Approximate Date of Wire | Approximate Amount | Beneficiary                   | Balance in Correspondent Account |
|--------------------------|--------------------|-------------------------------|----------------------------------|
| 1/6/2009                 | \$11,000           | Client's A Husband in Aruba   | \$19,981,214                     |
| 4/21/2009                | \$20,000           | Client A and Husband in Aruba | \$65,530,439                     |
| 7/13/2009                | \$24,000           | Client's A Husband in U.S.    | \$163,047,914                    |
| 7/20/2009                | \$24,000           | Client's A Husband in Aruba   | \$62,017,174                     |
| 9/15/2009                | \$20,000           | Client's A Husband in Aruba   | \$44,597,958                     |
| 3/9/2010                 | \$100,000          | Client A and Husband in U.S.  | \$46,133,785                     |
| <b>Total:</b>            | <b>\$199,000</b>   |                               |                                  |

46. As of on or about October 8, 2008, Client A's undeclared Wegelin account held approximately \$2,332,860.

**Kenneth Heller**

47. At all times relevant to this Complaint, Kenneth Heller was a United States citizen who maintained a residence and office in Manhattan. In or about December 2005 and January 2006, Heller opened an undeclared account at UBS and funded it with approximately \$26,420,822 wired from the United States. Heller then transferred approximately \$19 million from UBS to his account at Wegelin.

48. On or about June 6, 2008, Heller became concerned about the Department of Justice's investigation into UBS's cross-border business and faxed a news article about the investigation to his UBS client advisor ("UBS Client Advisor A").

49. On or about June 21, 2008, Heller retained an independent asset manager based in Liechtenstein ("Liechtenstein Asset Manager A") to manage a new undeclared account that he opened at Wegelin, at or about that time. Over the next several months, Heller funded this account with approximately \$19 million wired from UBS. In order to protect Heller, the account was opened in the name of Nathelm Corporation, Inc., according to a September 9, 2008 letter sent to Heller's tax preparer by an attorney working for Heller ("Heller Attorney A"). This letter further stated:

All Heller money was transferred directly from UBS to Wegelin. . . . The problem is the US Government interference with Swiss Banks, in [an] attempt to seize income tax evaders. . . . The US Government gladly pressed its case with Swiss Govt for bank disclosure of US citizens, etc. This is why KH left UBS[.]

50. On various dates in 2008 and 2009, including on or about August 22, 2008, Liechtenstein Asset Manager A faxed to Heller's office in Manhattan account statements and other documents relating to his undeclared account at Wegelin.

51. On various occasions in or about 2008 and 2009, in response to telephone and fax requests that Heller made from locations in Manhattan and New Jersey to the Liechtenstein Asset Manager who managed Heller's account at Wegelin, the Liechtenstein Asset Manager mailed or sent by courier service from Liechtenstein to the United States checks drawn on Wegelin's Correspondent Account for the benefit of Heller, his wife, and

his associates. For example, on or about July 8, 2009, Heller caused Wegelin to issue from the Stamford Correspondent Account approximately 12 checks in the amount of \$2,500 made to Heller's wife. The Liechtenstein Asset Manager then sent these checks to Heller in the United States. The following chart sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, the payee on the checks, their amount, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated which were commingled with these laundered funds, as the presence of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Issue | Approximate Date of Negotiation | Payee            | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|------------------|--------------------|----------------------------------|
| 3571          | 6/8/2009                  | 6/15/2009                       | Heller Associate | \$10,000           | \$69,074,951                     |
| 3583          | 7/8/2009                  | 8/18/2009                       | Heller's Wife    | \$2,500            | \$64,536,127                     |
| 3584          | 7/8/2009                  | 11/17/2009                      | Heller's Wife    | \$2,500            | \$49,570,987                     |
| 3585          | 7/8/2009                  | 11/10/2009                      | Heller's Wife    | \$2,500            | \$104,112,779                    |
| 3586          | 7/8/2009                  | 9/9/2009                        | Heller's Wife    | \$2,500            | \$51,658,912                     |
| 3587          | 7/8/2009                  | 8/31/2009                       | Heller's Wife    | \$2,500            | \$294,451,642                    |
| 3588          | 7/8/2009                  | 10/6/2009                       | Heller's Wife    | \$2,500            | \$53,827,664                     |
| 3589          | 7/8/2009                  | 9/22/2009                       | Heller's Wife    | \$2,500            | \$59,943,005                     |
| 3590          | 7/8/2009                  | 9/29/2009                       | Heller's Wife    | \$2,500            | \$34,520,342                     |
| 3591          | 7/8/2009                  | 10/13/2009                      | Heller's Wife    | \$2,500            | \$81,375,473                     |
| 3592          | 7/8/2009                  | 8/10/2009                       | Heller's Wife    | \$2,500            | \$37,431,790                     |
| 3593          | 7/8/2009                  | 10/20/2009                      | Heller's Wife    | \$2,500            | \$54,840,187                     |
| 3595          | 7/8/2009                  | 10/27/2009                      | Heller's Wife    | \$2,500            | \$88,762,931                     |
| 3623          | 7/16/2009                 | 10/5/2009                       | Heller           | \$2,500            | \$81,812,862                     |
| 3736          | 9/11/2009                 | 9/18/2009                       | Heller Associate | \$37,814           | \$90,691,285                     |
| 3744          | 9/22/2009                 | 12/23/2009                      | Heller           | \$50,000           | \$36,532,160                     |
| 3745          | 9/22/2009                 | 12/7/2009                       | Heller           | \$50,000           | \$50,055,428                     |
| 3746          | 9/22/2009                 | 11/3/2009                       | Heller           | \$50,000           | \$44,693,428                     |
| 3747          | 9/22/2009                 | 10/7/2009                       | Heller           | \$25,000           | \$46,505,491                     |
| 3750          | 9/24/2009                 | 10/5/2009                       | Heller           | \$16,000           | \$81,767,122                     |
| <b>Total:</b> |                           |                                 |                  | \$271,314          |                                  |

52. On or about December 31, 2008, Heller's undeclared account at Wegelin held approximately \$18,466,686.

53. On or about May 4, 2011, Kenneth Heller was indicted in the Southern District of New York on charges related to this conduct. See United States v. Heller, Indictment S1 10 Cr. 388 (PKC). On June 27, 2011, Heller pleaded guilty to certain charges related to this conduct.

Client EE

54. At all times relevant to this Complaint, Client EE was a resident of New Jersey and a citizen of the United States. Beginning in or about the 1980s, Client EE maintained an interest in assets held in an undeclared account with Swiss Bank B in Switzerland.

55. In or around 2008, Client EE opened an undeclared account at Wegelin and funded it by transferring his undeclared funds from his account at Swiss Bank B into his account at Wegelin. The assets in his Wegelin account were managed by an independent asset manager in Switzerland ("Independent Asset Manager A").

56. In or around 2010, Client EE went on safari in Africa. To pay for the safari, by a prearranged system with Independent Asset Manager A, Client EE sent a letter with no return address from New Jersey to Independent Asset Manager A in Switzerland. The envelope contained a single piece of paper on

which was written the amount of money Client EE needed to wire to the safari company -- and nothing else. At or about that same time, Client EE sent a second letter to Independent Asset Manager A containing only the wire transfer details for the safari company's bank account in Botswana. Thereafter, pursuant to these instructions, on or about June 22, 2010, Wegelin wired approximately \$37,000 through the Stamford Correspondent Account to the safari company's bank account in Botswana.

57. After the transaction was complete, Independent Asset Manager A sent Client EE the following email, with the subject of "all done":

Dear Friend

Your 2 letters well received. Everything has been done at [sic] your satisfaction.

Hope to get soon your report about your experience in Africa.

kind rgds [Independent Asset Manager A.]

58. In August 2010, Client EE, who was in Africa on his safari, contacted Independent Asset Manager A via satellite phone to request additional transfers of funds from his undeclared account for safari-related expenses. These additional transfers were conducted through the Stamford Correspondent Account.

59. The following chart sets forth the approximate date of the three wires involving Client EE's undeclared funds, their approximate amount, the recipient of the moneys wired, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates of these wires which were commingled with these laundered funds, as the presence of these additional funds helped to conceal the nature of these transactions and lend them an aura of legitimacy:

| Approximate Date of Wire | Approximate Amount | Beneficiary      | Balance in Correspondent Account |
|--------------------------|--------------------|------------------|----------------------------------|
| 6/22/2010                | \$37,000           | Safari Company A | \$43,521,742                     |
| 8/13/2010                | \$7,358            | Safari Company A | \$44,784,113                     |
| 8/18/2010                | \$18,910           | Safari Company B | \$30,447,097                     |
| <b>Total:</b>            | <b>\$63,268</b>    |                  |                                  |

60. As of December 2009, Client EE's undeclared Wegelin account held approximately \$847,844.

**Client FF**

61. At all times relevant to this Complaint, Client FF was a resident of Connecticut and a citizen of the United States. Beginning in or about 2006, Client FF inherited the assets in an undeclared account at Wegelin.

62. Between in or about 2007 and in or about 2010, Client FF would request that funds in her undeclared account be sent to her in the United States. The following chart sets forth the approximate date of these wires of undeclared funds, their approximate amount (all being under \$10,000), and the approximate amount of other funds present in the Stamford Correspondent

Account on the dates of these wires which were commingled with these laundered funds, as the presence of these additional funds helped to conceal the nature of these transactions and lend them an aura of legitimacy:

| Approximate Date of Wire | Approximate Amount | Balance in Correspondent Account |
|--------------------------|--------------------|----------------------------------|
| 3/30/2007                | \$8,000            | Unknown                          |
| 4/27/2007                | \$8,000            | Unknown                          |
| 4/1/2008                 | \$2,000            | \$248,654,358                    |
| 4/15/2008                | \$4,000            | \$133,343,684                    |
| 5/1/2008                 | \$2,000            | \$86,740,853                     |
| 5/15/2008                | \$4,000            | \$332,292,787                    |
| 5/30/2008                | \$2,000            | \$362,138,500                    |
| 6/13/2008                | \$4,000            | \$114,679,223                    |
| 7/1/2008                 | \$2,000            | \$129,236,669                    |
| 7/15/2008                | \$4,000            | \$132,874,863                    |
| 8/1/2008                 | \$2,000            | \$92,435,805                     |
| 8/15/2008                | \$4,000            | \$72,907,702                     |
| 8/29/2008                | \$2,000            | \$205,841,642                    |
| 9/15/2008                | \$4,000            | \$136,948,031                    |
| 10/1/2008                | \$2,000            | \$124,263,021                    |
| 10/31/2008               | \$2,000            | \$195,615,889                    |
| 11/14/2008               | \$4,000            | \$79,412,826                     |
| 12/1/2008                | \$2,000            | \$65,054,464                     |
| 12/15/2008               | \$4,000            | \$93,534,739                     |
| 12/31/2008               | \$2,000            | \$84,833,905                     |
| 1/15/2009                | \$4,000            | \$129,336,113                    |
| 1/30/2009                | \$2,000            | \$209,171,805                    |
| 2/13/2009                | \$4,000            | \$99,465,509                     |
| 2/27/2009                | \$2,000            | \$230,113,999                    |
| 3/13/2009                | \$4,000            | \$29,469,861                     |
| 4/1/2009                 | \$2,000            | \$96,886,436                     |
| 4/15/2009                | \$4,000            | \$74,499,693                     |
| 5/1/2009                 | \$2,000            | \$91,489,422                     |
| 5/15/2009                | \$4,000            | \$26,532,994                     |
| 5/22/2009                | \$4,000            | \$57,508,132                     |
| 6/1/2009                 | \$2,000            | \$32,490,597                     |
| 6/11/2009                | \$6,000            | \$49,389,643                     |
| 6/15/2011                | \$4,665            | \$69,156,083                     |
| 7/1/2009                 | \$3,500            | \$80,565,094                     |
| 7/15/2009                | \$4,665            | \$48,303,295                     |
| 7/31/2009                | \$3,500            | \$73,399,087                     |
| 8/14/2009                | \$4,665            | \$96,618,740                     |
| 9/1/2009                 | \$3,500            | \$46,291,162                     |
| 9/15/2009                | \$4,665            | \$44,758,574                     |
| 10/1/2009                | \$3,500            | \$47,701,580                     |
| 10/15/2009               | \$4,665            | \$41,657,633                     |
| 10/30/2009               | \$3,500            | \$128,010,605                    |
| 11/13/2009               | \$4,665            | \$82,477,831                     |
| 12/1/2009                | \$3,500            | \$72,436,937                     |
| 12/15/2009               | \$4,665            | \$115,582,834                    |
| 1/4/2010                 | \$3,500            | \$25,128,401                     |

| Approximate Date of Wire | Approximate Amount | Balance in Correspondent Account |
|--------------------------|--------------------|----------------------------------|
| 1/15/2010                | \$4,665            | \$56,856,972                     |
| 2/1/2010                 | \$3,500            | \$124,432,253                    |
| 2/12/2010                | \$4,665            | \$62,449,408                     |
| 3/1/2010                 | \$3,500            | \$54,568,040                     |
| 3/15/2010                | \$4,665            | \$26,634,941                     |
| 4/1/2010                 | \$3,500            | \$48,970,611                     |
| 4/15/2010                | \$4,665            | \$53,296,702                     |
| 4/30/2010                | \$3,500            | \$102,453,964                    |
| 5/14/2010                | \$4,665            | \$56,666,635                     |
| 6/1/2010                 | \$3,500            | \$89,343,924                     |
| 6/15/2010                | \$4,665            | \$48,922,713                     |
| 7/1/2010                 | \$3,500            | \$61,891,879                     |
| 7/15/2010                | \$4,665            | \$54,393,357                     |
| 7/30/2010                | \$3,500            | \$84,628,829                     |
| 8/13/2010                | \$4,665            | \$44,845,719                     |
| 9/1/2010                 | \$3,500            | \$41,416,166                     |
| 9/15/2010                | \$4,665            | \$118,095,506                    |
| 10/1/2010                | \$3,500            | \$96,423,501                     |
| 10/15/2010               | \$4,665            | \$41,546,297                     |
| 11/1/2010                | \$3,500            | \$38,089,673                     |
| 11/15/2010               | \$4,665            | \$81,327,026                     |
| 12/1/2010                | \$3,500            | \$22,629,739                     |
| 12/15/2010               | \$4,665            | \$84,605,472                     |
| 1/3/2011                 | \$3,500            | \$11,036,155                     |
| 1/14/2011                | \$4,665            | \$121,848,933                    |
| 2/1/2011                 | \$3,500            | \$39,212,663                     |
| 2/15/2011                | \$4,665            | \$47,873,545                     |
| 3/1/2011                 | \$3,500            | \$48,855,262                     |
| 3/15/2011                | \$4,665            | \$35,658,114                     |
| 4/1/2011                 | \$3,500            | \$59,151,432                     |
| 4/15/2011                | \$4,665            | \$32,234,843                     |
| 4/29/2011                | \$3,500            | \$70,530,946                     |
| 5/13/2011                | \$4,665            | \$148,092,185                    |
| 6/1/2011                 | \$3,500            | \$47,365,344                     |
| 6/15/2011                | \$4,665            | \$27,630,276                     |
| 7/1/2011                 | \$3,500            | \$56,198,868                     |
| 7/15/2011                | \$4,665            | \$39,911,743                     |
| 8/1/2011                 | \$3,500            | \$20,259,340                     |
| 8/15/2011                | \$4,665            | \$41,534,149                     |
| <b>Total:</b>            | <b>\$324,955</b>   |                                  |

63. As of December 31, 2008, Client FF's undeclared Wegelin account held approximately \$637,395.

Client GG

64. At all times relevant to this Complaint, Client GG was a resident of Westchester County, New York, and a citizen of the United States.

65. Beginning in or about the early 1990s, Client GG maintained an undeclared account at a Swiss bank. In or around 2006, Client GG transferred his assets at this Swiss bank into an undeclared account at Wegelin. The account was held in the name of Birkdale Universal, S.A. ("Birkdale"), an entity established under the laws of Panama (the "Birkdale Account"). Client GG also maintained declared accounts at Wegelin in addition to the undeclared Birkdale Account. Frei became Client GG's client advisor at Wegelin. Frei explained to Client GG that the purpose of placing his assets in the name of Birkdale was to further conceal his ownership of the funds.

66. In or about August 2007, Frei used one of Client GG's declared accounts at Wegelin and the Stamford Correspondent Account to conceal Frei's hand delivery of approximately \$16,000 in U.S. currency to another U.S. taxpayer-client of Frei ("Frei's Other Client") in the Southern District of New York. Specifically, prior to a trip to the United States in or about August 2007, Frei asked Client GG to permit Frei to wire approximately \$16,000 from one of Client GG's declared Wegelin accounts to Client GG in the Southern District of New York and then have Client GG withdraw these funds from his U.S. bank as cash for Frei to give to Frei's Other Client. Client GG consented. Frei then wired these funds through the Stamford Correspondent Account in two transactions, each under \$10,000,

reducing the chances that the transfer would be scrutinized. The chart below sets out the transactions as well as the approximate amount of other funds present in the Stamford Correspondent Account on the dates of the wires which were commingled with these laundered funds, as the presence of these additional funds helped to conceal the nature of these transactions and lend them an aura of legitimacy:

| Approximate Date of Wire | Approximate Amount | Balance in Correspondent Account |
|--------------------------|--------------------|----------------------------------|
| 8/8/2007                 | \$8,000            | Unknown                          |
| 8/9/2007                 | \$8,000            | Unknown                          |
| Totals:                  | \$16,000           |                                  |

67. Client GG, who was aware of certain currency transaction reporting requirements of U.S. financial institutions, withdrew these funds from his bank in Westchester County, New York in three different withdrawals on three different dates, each in an amount less than \$10,000. Frei then traveled to the United States where, on or about August 21, 2007, he met Client GG for lunch in Manhattan. At the lunch, Client GG provided Frei an unmarked envelope containing the approximately \$16,000 in cash. During the lunch, the head waiter informed Frei that someone else at the restaurant wished to speak with him. Frei then excused himself from Client GG for approximately ten minutes. Frei sat at a table across the restaurant with Frei's Other Client and provided her with the cash-filled envelope that Client GG provided to Frei. Frei commented to Client GG that it was becoming increasingly difficult to move

funds out of Switzerland and this was a technique he employed to conduct such international transactions.

68. Frei then credited Client GG's undeclared account at Wegelin, the Birkdale Account, with approximately \$16,000.

69. As of 2010, Client GG's undeclared Wegelin account held approximately \$898,652.

Client HH

70. At all times relevant to this Complaint, Client HH was a resident of Connecticut and, beginning in 2007, became a citizen of the United States.

71. Beginning in or about the 1990s, Client HH maintained an undeclared account at UBS. Client HH was assisted by an independent asset manager in Switzerland ("Independent Asset Manager B"). In or about 2003, Client HH and Independent Asset Manager B transferred the funds in Client HH's account at UBS to be to an undeclared account at Wegelin.

72. From time to time, Client HH received funds from her undeclared account at Wegelin with the assistance of Independent Asset Manager B. When visiting Switzerland, Independent Asset Manager B provided Client HH funds from her Wegelin account. Independent Asset Manager B advised Client HH never to take more than \$10,000 into the United States at any one time.

73. Client HH also received checks from Wegelin drawn on the Stamford Correspondent Account, made payable to her, and sent to her from Switzerland. Independent Asset Manager B discussed with Client HH keeping these checks in amounts under \$10,000. The following chart sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, their amount, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated which were commingled with these laundered funds, as the presence of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Issue | Approximate Date of Negotiation | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|--------------------|----------------------------------|
| 2217          | 3/10/2005                 | 3/16/2005                       | \$5,000            | Unknown                          |
| 2635          | 11/8/2006                 | 11/22/2006                      | \$5,000            | Unknown                          |
| 2636          | 11/13/2006                | 11/28/2006                      | \$5,000            | Unknown                          |
| 3152          | 11/13/2007                | 12/4/2007                       | \$5,000            | Unknown                          |
| 3283          | 5/30/2008                 | 6/11/2008                       | \$8,500            | \$89,755,735                     |
| 3421          | 11/28/2008                | 12/15/2008                      | \$8,500            | \$93,516,238                     |
| 3483          | 1/26/2009                 | 2/3/2009                        | \$8,500            | \$170,082,906                    |
| 3509          | 2/26/2009                 | 3/16/2009                       | \$8,500            | \$53,526,844                     |
| 3532          | 3/25/2009                 | 4/15/2009                       | \$8,500            | \$74,410,514                     |
| 3556          | 4/24/2009                 | 5/5/2009                        | \$8,500            | \$70,969,156                     |
| 3568          | 5/25/2009                 | 6/12/2009                       | \$8,500            | \$39,365,126                     |
| <b>Total:</b> |                           |                                 | <b>\$79,500</b>    |                                  |

74. Independent Asset Manager B traveled on multiple occasions to the United States and met with Client HH in Manhattan, New York including at the Waldorf Astoria. Before traveling to the United States, Independent Asset Manager B asked Client HH if she would like him to bring any funds from her

undeclared Wegelin account to her in the United States. When Client HH did request such undeclared funds, he provided her the funds, in cash, when they met for dinner in New York.

75. As of 2007, Client HH's undeclared Wegelin account held approximately \$177,095.

**Wegelin Lauanders Undeclared Funds for U.S. Taxpayers  
with Undeclared Accounts at Other Swiss Banks**

76. In addition to providing U.S. taxpayer-clients with undeclared accounts at Wegelin access to their undeclared funds through its Stamford Correspondent Account, Wegelin also allowed other Swiss banks where U.S. taxpayer-clients had undeclared accounts to provide these U.S. taxpayer-clients access to their undeclared funds through Wegelin's Stamford Correspondent Account. For example, Wegelin allowed Swiss Bank C and Swiss Bank D to have checks written to be drawn on the Stamford Correspondent Account. In turn, Swiss Bank C and Swiss Bank D used Wegelin's Stamford Correspondent Account to send undeclared funds to U.S. taxpayer-clients in the United States. Swiss Bank C did so despite the fact that it maintained its own correspondent account at the same bank where Wegelin maintained the Stamford Correspondent Account, UBS. By sending the funds through Wegelin's Stamford Correspondent Account, it became more difficult for the IRS to link U.S. taxpayer-clients to their

undeclared accounts in Switzerland at the actual banks that managed their undeclared assets, promoting the scheme to defraud.

Client II

77. At all times relevant to this Complaint, Client II was a resident of Arizona and a citizen of the United States. Beginning in or about 2010, Client II maintained an undeclared account at Swiss Bank C.

78. Previously, in or about 2003, Client II maintained an undeclared account at another Swiss bank. In 2010, that Swiss bank informed him that he had to close his account. He then opened his account at Swiss Bank C and transferred his assets there.

79. In or about February 2010, Client II wrote to his Client Advisor at Swiss Bank C ("Swiss Bank C Client Advisor") the following:

Requests for [Swiss Bank C Client Advisor]:

Please send in batches of three, USD cheques made in favor of [Corporate entity controlled by Client II, hereafter "II Entity"] (our subchapter S corporation) as follows:

One month after the inception of the account, \$4788, \$4908, \$4889.

Two months later, \$4833, \$4805, \$4922

Three months later, \$3555, \$4245, \$4010

Three months later. \$4909, \$4554, \$4650

I believe that DHL is your preferred carrier. Is this correct?

Each of these cheques will be cashed over a period of time following receipt which might be up to five months unless you have a rule precluding holding them open that long

[ ] .

80. In or about September 2010, Client II wrote the following to Swiss Bank C Client Advisor:

We have settled on a schedule for checks to be sent.

|             |         |         |         |
|-------------|---------|---------|---------|
| September 1 | \$4,788 | \$4,908 | \$4,889 |
| December 1  | \$4,833 | \$4,805 | \$4,922 |

As we have discussed previously, the checks should be drawn in the U.S. dollars on your corresponding US bank and made in favor of:

[II Entity]

The checks will be cashed over a period of time after receipt, up to four months, *unless* [Swiss Bank C] has a rule precluding holding them open that long [emphasis in original].

[ ]

I expect to send a similar schedule for 2011 towards the end of this year. As usual, please let me know if you have any questions about these arrangements.

81. On or about March 16, 2011, Client II wrote the following to Swiss Bank C Client Advisor:

Another shipment, please. Three items: 4883, 4809 & 4962. Thanks much, [Client II].

82. Client II received in Arizona by mail from Switzerland checks from Swiss Bank C Client Advisor drawn on Wegelin's Stamford Correspondent Account. Client II then negotiated certain of these Wegelin checks. The following chart

sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, the payee on the checks, their amount, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated which were commingled with these laundered funds, as the presence of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Check | Approximate Date of Negotiation | Payee     | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|-----------|--------------------|----------------------------------|
| 4361          | 12/9/2010                 | 1/18/2011                       | II Entity | \$4,833            | \$31,059,989                     |
| 4363          | 12/10/2010                | 3/14/2011                       | II Entity | \$4,922            | \$89,569,750                     |
| 4416          | 1/28/2011                 | 2/28/2011                       | Client II | \$3,600            | \$53,592,564                     |
| 4417          | 1/28/2011                 | 3/17/2011                       | Client II | \$2,850            | \$41,604,546                     |
| 4483          | 3/17/2011                 | 4/13/2011                       | II Entity | \$4,883            | \$24,219,843                     |
| <b>Total:</b> |                           |                                 |           | <b>\$21,088</b>    |                                  |

83. As of October 2010, Client II's undeclared Swiss Bank C account held approximately \$2,183,606.

Client JJ

84. At all times relevant to this Complaint, Client JJ was a resident of Arizona and a citizen of the United States. Beginning in or about 2010, Client JJ maintained an undeclared account at Swiss Bank C.

85. Previously, in or about the 1990s, Client JJ maintained an undeclared account at Swiss Bank B in Switzerland. In or about late 2009, Swiss Bank B informed him that he had to close his account. He traveled to Switzerland to decide what steps to take regarding his account. While there, Client JJ

encountered other U.S. taxpayer-clients in the same situation. Another U.S. taxpayer informed Client JJ that Swiss Bank C was still accepting Americans.

86. On that same trip, Client JJ went to Swiss Bank C, completed account opening documents, provided a copy of his U.S. passport, and opened an undeclared account at Swiss Bank C. Swiss Bank C Client Advisor managed his account.

87. After he opened the account at Swiss Bank C, Client JJ arranged to receive periodically in the United States funds sent to him from his undeclared account at Swiss Bank C. The funds were sent in the form of checks drawn on the Stamford Correspondent Account and mailed to him in Arizona from Switzerland. He then negotiated certain of these checks. The following chart sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, the payee on the checks, their amount, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated which were commingled with these laundered funds, as the presence of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Check | Approximate Date of Negotiation | Payee     | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|-----------|--------------------|----------------------------------|
| 3796          | 10/21/2009                | 10/29/2009                      | Client JJ | \$45,000           | \$44,060,348                     |
| 3926          | 1/22/2010                 | 2/2/2010                        | Client JJ | \$45,000           | \$116,357,109                    |
| 4060          | 4/6/2010                  | 4/20/2010                       | Client JJ | \$45,000           | \$86,051,898                     |
| 4411          | 1/25/2011                 | 2/11/2011                       | Client JJ | \$45,000           | \$59,806,788                     |
| 4489          | 3/23/2011                 | 4/1/2011                        | Client JJ | \$45,000           | \$58,867,620                     |
| <b>Total:</b> |                           |                                 |           | <b>\$225,000</b>   |                                  |

88. As of July 2011, Client JJ's undeclared Swiss Bank C account held approximately \$6,700,000.

Client KK

89. At all times relevant to this Complaint, Client KK was a resident of Connecticut and a citizen of the United States. Beginning in or about 2002, Client KK maintained an undeclared account at Swiss Bank D.

90. Client KK arranged to receive periodically funds in the United States sent to him from his undeclared account at Swiss Bank D. The funds were sent in the form of checks drawn on the Stamford Correspondent Account and mailed to him in Connecticut from Switzerland. The checks were Wegelin checks drawn on of Wegelin's Stamford Correspondent Account. Client KK then negotiated certain of these Wegelin checks. The following chart sets forth the check numbers for some of these checks, the approximate date they were issued and mailed, the approximate date they were negotiated, the payee on the checks, their amount, and the approximate amount of other funds present in the Stamford Correspondent Account on the dates the checks were negotiated which were commingled with these laundered funds, as the presence

of these additional funds helped to conceal these transactions and lend them an aura of legitimacy:

| Check No.     | Approximate Date of Check | Approximate Date of Negotiation | Payee     | Approximate Amount | Balance in Correspondent Account |
|---------------|---------------------------|---------------------------------|-----------|--------------------|----------------------------------|
| 2184          | 3/10/2005                 | 3/16/2005                       | Client KK | \$5,621            | unknown                          |
| 2252          | 6/23/2005                 | 7/6/2005                        | Client KK | \$9,367            | unknown                          |
| 2331          | 10/11/2005                | 10/14/2005                      | Client KK | \$7,863            | unknown                          |
| 2399          | 1/9/2006                  | 1/17/2006                       | Client KK | \$32,250           | unknown                          |
| 2423          | 2/7/2006                  | 2/16/2006                       | Client KK | \$26,675           | unknown                          |
| 2448          | 3/15/2006                 | 3/21/2006                       | Client KK | \$7,570            | unknown                          |
| 2490          | 5/16/2006                 | 5/22/2006                       | Client KK | \$8,250            | unknown                          |
| 2547          | 7/26/2006                 | 8/1/2006                        | Client KK | \$2,900            | unknown                          |
| 2591          | 9/7/2006                  | 9/12/2006                       | Client KK | \$8,000            | unknown                          |
| 2634          | 11/7/2006                 | 11/10/2006                      | Client KK | \$9,827            | unknown                          |
| 2726          | 8/2/2007                  | 2/14/2007                       | Client KK | \$8,730            | unknown                          |
| 2791          | 4/25/2007                 | 4/30/2007                       | Client KK | \$8,200            | unknown                          |
| 3253          | 3/13/2008                 | 3/18/2008                       | Client KK | \$5,000            | \$143,304,893                    |
| <b>Total:</b> |                           |                                 |           | <b>\$140,253</b>   |                                  |

91. As of 2006, Client KK's undeclared Swiss Bank D account held approximately \$163,115.

#### IV. CLAIM FOR FORFEITURE

92. Paragraphs 1 through 91 of this Complaint are repeated and realleged as if fully set forth herein.

93. The Defendant Funds are subject to forfeiture pursuant to the following statutory provisions:

#### Section 981(a)(1)(A) of Title 18 of the United States Code

94. Title 18, United States Code, § 981(a)(1)(A) subjects to forfeiture "[a]ny property real or personal involved in a transaction or attempted transaction in violation of . . . section 1956, 1957 . . . of this title, or any property traceable to such property."

95. Title 18, United States Code, § 1956(a) provides:

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States-

(A) with the intent to promote the carrying on of specified unlawful activity;

[shall be guilty of money laundering].

96. Title 18, United States Code, § 1956(h) provides:

Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

97. "Specified unlawful activity" is defined in 18 U.S.C. § 1956(c) (7), and the term includes any offense under 18 U.S.C. § 1961(1). Section 1961(1) lists as offenses both mail fraud (18 U.S.C. § 1343) and wire fraud (18 U.S.C. § 1343).

98. Title 18, United States Code, Section 1349 provides:

Any person who attempts or conspires to commit any offense under this chapter [including mail fraud or wire fraud] shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

99. By reason of the above, the Defendant Funds are subject to forfeiture pursuant to Title 18, United States Code, Section 981(a) (1) (A).

Section 984 of Title 18 of the United States Code

100. Title 18, United States Code, Section 984(a)

provides:

(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or precious metals--

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except [for actions to forfeit property pursuant to this section not traceable directly to the offense that is the basis for the forfeiture commenced more than one year from the date of the offense], any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

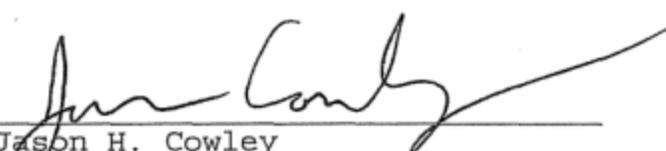
101. Pursuant to Title 18, United States Code, Section 984(c), Section 984(a) applies to funds held by a financial institution in an "interbank account" such as the Stamford Correspondent Account when the account holder knowingly engaged in the offense that is the basis for the forfeiture. As alleged in this Complaint, Wegelin, the account holder of the Stamford Correspondent Account, knowingly participated in a conspiracy to launder funds in violation of Title 18, United States Code, Section 1956(h).

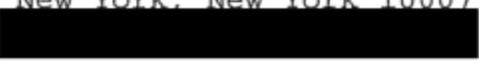
102. Accordingly, the provisions of Title 18, United States Code, Section 984(a) apply to this action.

WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the Defendant Funds and that all persons having an interest in the Defendant Funds be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the Defendant Funds to the United States of America for disposition according to law and that this Court grant plaintiff such further relief as this Court may deem just and proper together with the costs and disbursements in this action.

Dated: New York, New York  
February 2, 2012

PREET BHARARA  
United States Attorney for  
Plaintiff United States of America

By: 

Jason H. Cowley  
Daniel W. Levy  
David B. Massey  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007  


VERIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK :  
SOUTHERN DISTRICT OF NEW YORK )

CAROLYN R. WORKING, being duly sworn, deposes and says that she is a Special Agent with the Internal Revenue Service, Criminal Investigation; that she has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true to the best of her knowledge, information and belief.

The sources of deponent's information and the grounds of her belief are her personal involvement in the investigation, and conversations with and documents prepared by law enforcement officers and others.



CAROLYN R. WORKING  
Special Agent  
Internal Revenue Service,  
Criminal Investigation

Sworn to before me this  
2<sup>nd</sup> day of February 2012

  
Notary Public

MARCO DASILVA  
Notary Public, State of New York  
No. 01DA6145603  
Qualified in Nassau County  
My Commission Expires May 8, 2014

# Exhibit A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v.-

MICHAEL BERLINKA,  
URS FREI, and  
ROGER KELLER,

Defendants.

JUDGE RAKOFF

INDICTMENT

12 Cr. \_\_\_\_ (\_\_\_\_)

12 CRIM 002

COUNT ONE  
(Conspiracy)

The Grand Jury charges:

The Co-Conspirators and Their Bank

1. At all times relevant to this Indictment, Swiss Bank A provided private banking, asset management, and other services to individuals and entities around the world, including U.S. taxpayers in the Southern District of New York. Swiss Bank A provided these services through "client advisors" based in its various branches in Switzerland ("Client Advisors"). Swiss Bank A was principally owned by a small group of managing partners ("Managing Partners"). Swiss Bank A did not maintain an office or branch in the United States, but it directly accessed the U.S. banking system through a correspondent bank account held at UBS AG ("UBS") in Stamford, Connecticut (the "Stamford Correspondent Account").

2. From in or about 2008 up through and including at least in or about 2010, MICHAEL BERLINKA, the defendant, worked as a Client Advisor at Swiss Bank A's Zurich branch (the "Zurich Branch").

3. From in or about 2006 up through and including in or about 2011, URS FREI, the defendant, worked as a Client Advisor at Swiss Bank A's Zurich Branch.

4. From in or about 2007 up through and including in or about 2011, ROGER KELLER, the defendant, worked as a Client Advisor at Swiss Bank A's Zurich Branch. When KELLER was out of the office and could not communicate with, or provide services to, his U.S. taxpayer-clients, URS FREI, the defendant, served as KELLER's backup, and vice versa.

5. From in or about 2005 up through and including in or about 2010, Client Advisor A, a co-conspirator not named as a defendant herein, worked as a Client Advisor at Swiss Bank A's Zurich Branch. At various times, Client Advisor A also served as the "team leader" of MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and other Client Advisors of the Zurich Branch. As a team leader, Client Advisor A coordinated certain activities of, but did not supervise, these and other Client Advisors.

6. From in or about 2007 up through and including in or about 2011, Managing Partner A, a co-conspirator not named as

a defendant herein, was one of the Managing Partners of Swiss Bank A. From in or about 2005 up through and including in or about 2011, Managing Partner A was the head of Swiss Bank A's Zurich Branch. During that period, Managing Partner A supervised MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, Client Advisor A, and other Client Advisors in the Zurich Branch with respect to, among other things, the opening and servicing of "undeclared accounts" for U.S. taxpayers - that is, bank and securities accounts for U.S. taxpayers in which the assets, and the income generated in them, were not reported by the U.S. taxpayers to the taxation authority of the United States, the Internal Revenue Service ("IRS").

7. At all times relevant to this Indictment, Beda Singenberger ("Singenberger"), a co-conspirator not named as a defendant herein, owned, operated, and controlled an investment advisory business based in Zurich called Sinco Treuhand AG ("Sinco Trust"). Beginning at least in or about 2000, Singenberger, through Sinco Trust, served as an independent asset manager for various U.S. taxpayers who held undeclared accounts at Swiss Bank A, UBS AG ("UBS"), and other Swiss banks. Singenberger helped U.S. taxpayers hide such accounts, and the income generated therein, by, among other things, selling sham corporations and foundations to U.S. taxpayers as vehicles through which the U.S. taxpayers could hold their undeclared

accounts at UBS, Swiss Bank A, and other Swiss private banks, and by serving as the asset manager for U.S. taxpayers who held undeclared accounts at these banks. From at least in or about 2002 to in or about 2006, Singenberger regularly traveled to the Southern District of New York and other places in the United States to meet with his U.S. taxpayer-clients with undeclared accounts at UBS, Swiss Bank A, and other Swiss private banks.

8. From in or about the mid-1990s up through and including in or about late 2008, Gian Gisler ("Gisler"), a co-conspirator not named as a defendant herein, worked as a client advisor at UBS in Switzerland. From in or about early 2009 up through and including in or about mid to late 2009, Gisler served as an independent asset manager at a Swiss asset management firm ("Swiss Asset Manager A") for U.S. taxpayers who held undeclared accounts at Swiss Bank A, UBS, and other Swiss banks. Gisler managed and/or assisted in opening at least seven undeclared accounts for U.S. taxpayers at Swiss Bank A. At all times relevant to this Indictment, Swiss Asset Manager A did not maintain an office in the United States.

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

9. At all times relevant to this Indictment, citizens and residents of the United States who had income in any one calendar year in excess of a threshold amount ("U.S.

taxpayers") were required to file a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), for that calendar year with the IRS. On Form 1040, U.S. taxpayers were obligated to report their worldwide income, including income earned in foreign bank accounts. In addition, when a U.S. taxpayer completed Schedule B of Form 1040, he or she was required to 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," and if so, the U.S. taxpayer was required to name the country.

10. In addition, U.S. taxpayers who had a financial interest in, or signature or other authority over a foreign bank account with an aggregate value of more than \$10,000 at any time during a particular calendar year were required to file with the IRS a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 ("FBAR") on or before June 30 of the following year. In general, the FBAR required that the U.S. taxpayer filing the form identify the financial institution with which the financial account was held, the type of account (either bank, securities, or other), the account number, and the maximum value of the account during the calendar year for which the FBAR was being filed.

## Overview of the Conspiracy

11. From at least in or about 2005 up through and including in or about 2010, more than 100 U.S. taxpayer-clients of Swiss Bank A conspired with, at various times, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and others known and unknown, including Managing Partner A, Client Advisor A, and other Client Advisors at Swiss Bank A, to defraud the United States by concealing from the IRS undeclared accounts owned by U.S. taxpayers at Swiss Bank A. As of in or about 2010, the total value of such undeclared accounts was at least \$1.2 billion. In particular, BERLINKA, FREI, KELLER, and other Client Advisors opened dozens of new undeclared accounts for U.S. taxpayers in or about 2008 and 2009 after UBS AG ("UBS") and another large international bank based in Switzerland ("International Bank") closed their businesses servicing undeclared accounts for U.S. taxpayers ("the U.S. cross-border banking businesses") in the wake of widespread news reports in Switzerland and the United States that the IRS was investigating UBS for helping U.S. taxpayers evade taxes and hide assets in Swiss bank accounts. BERLINKA, FREI, KELLER, Client Advisor A and other Client Advisors did so after the Managing Partners, including Managing Partner A, affirmatively decided to take advantage of the flight of U.S. taxpayer-clients from UBS by opening new undeclared accounts for these U.S. taxpayers at

Swiss Bank A. As a result of this influx of former UBS U.S. taxpayer-clients into Swiss Bank A, Swiss Bank A's undeclared U.S. taxpayer assets under management, and the fees earned by managing those assets, increased substantially. As part of their sales pitch to U.S. taxpayer-clients who were fleeing UBS, at various times, BERLINKA, FREI, KELLER, and other Client Advisors told U.S. taxpayer-clients that their undeclared accounts at Swiss Bank A would not be disclosed to the United States authorities because Swiss Bank A had a long tradition of bank secrecy and, unlike UBS, did not have offices outside Switzerland, thereby making Swiss Bank A less vulnerable to United States law enforcement pressure. Managing Partner A and another executive of Swiss Bank A participated in some of these meetings. At various times, BERLINKA, FREI, and KELLER collectively managed undeclared U.S. taxpayer assets worth hundreds of millions of dollars.

Means and Methods of the Conspiracy

12. Among the means and methods by which MICHAEL BERLINKA, URS FREI, and ROGER KELLER the defendants, and their co-conspirators carried out the conspiracy were the following:

a. BERLINKA, FREI, KELLER, and other Client Advisors opened and serviced undeclared accounts for U.S. taxpayers for the purpose of helping the U.S. taxpayers hide assets and income from the IRS.

b. BERLINKA, FREI, and other Client Advisors opened and serviced undeclared accounts for U.S. taxpayer-clients in the name of sham corporations and foundations formed under the laws of Liechtenstein, Panama, Hong Kong, and other jurisdictions for the purpose of concealing the identities of the beneficial owners of those accounts -- that is, their U.S. taxpayer-clients -- from the IRS.

c. FREI and other Client Advisors knowingly received and retained at Swiss Bank A documents that falsely declared that such sham entities were the beneficial owners of certain accounts, when FREI and the other Client Advisors knew that U.S. taxpayer-clients beneficially owned such accounts.

d. BERLINKA, FREI, and other Client Advisors permitted certain U.S. taxpayers to open and maintain undeclared accounts at Swiss Bank A using code names and numbers (so-called "numbered accounts") so that the identities of the U.S. taxpayer-clients would appear on a minimal number of bank documents in the event that documents or databases were stolen from Swiss Bank A or otherwise fell into the hands of third parties.

e. BERLINKA, FREI, KELLER, and others ensured that account statements and other mail for their U.S. taxpayer-clients were not mailed to them in the United States.

f. BERLINKA, KELLER, and other Client Advisors sent e-mails and Federal Express packages to potential U.S. taxpayer-clients in the United States to solicit new private banking and asset management business.

g. At various times from in or about 2005 up through and including in or about 2007, BERLINKA, FREI, KELLER, and other Client Advisors communicated by e-mail and/or telephone with U.S. taxpayer-clients who had undeclared accounts at Swiss Bank A. Client Advisors sometimes used their personal e-mail accounts to communicate with U.S. taxpayers to reduce the risk of detection by law enforcement authorities.

h. Swiss Bank A opened undeclared accounts for U.S. taxpayers referred to them by, and whose account opening paperwork was completed by, an investment advisor in Manhattan and a lawyer in Los Angeles, California.

i. Beginning in or about late 2008 or early 2009, after Swiss Bank A began to open new undeclared accounts for U.S. taxpayers whose accounts were being closed by UBS, Managing Partner A instructed BERLINKA, FREI, KELLER and other Client Advisors of the Zurich Branch not to communicate with their U.S. taxpayer-clients by telephone or e-mail, and instead to cause their U.S. taxpayer-clients to travel from the United States to Switzerland to conduct business relating to their undeclared accounts.

j. BERLINKA and other Client Advisors regularly permitted certain U.S. taxpayer-clients to repatriate funds from their undeclared accounts to the United States by causing Swiss Bank A to: (a) issue checks drawn on Swiss Bank A's Stamford Correspondent Account to the U.S. taxpayer-clients or their designated payees; and then (b) send the checks to the United States by private letter carrier.

k. BERLINKA advised U.S. taxpayer-clients not to voluntarily disclose undeclared accounts to the IRS and assured them that their Swiss Bank A account information would not be disclosed to United States authorities.

l. Various U.S. taxpayer-clients of BERLINKA, FREI, KELLER and other Client Advisors filed Forms 1040 that falsely and fraudulently failed to report the existence of, and the income generated from, their undeclared Swiss Bank A accounts; evaded substantial income taxes due and owing to the IRS; and failed to file FBARS identifying their undeclared accounts.

Swiss Bank A Solicited New Undeclared  
Accounts Through a Third-Party Website

13. From in or about 2005 up through and including in or about 2009, Swiss Bank A solicited new business from U.S. taxpayers wishing to open undeclared accounts in Switzerland by recruiting clients through the third-party website

" [REDACTED] " As of on or about July 2, 2007, this website advertised "Swiss Numbered Bank Account[s]" and "Swiss Anonymous Bank Account[s]", among other things. Specifically, the website stated:

Swiss banking laws are very strict and it is illegal for a banker to reveal the personal details of an account number unless ordered to do so by a judge.

This is long established in Swiss law. Any banker who reveals information about you without your consent risks a custodial sentence [sic] if convicted, with the only exceptions to this rule concerning serious violent crimes.

Swiss banking secrecy is not lifted for tax evasion. The reason for this is because failure to report income or assets is not considered a crime under Swiss banking law. As such, neither the Swiss government, nor any other government, can obtain information about your bank account. They must first convince a Swiss judge that you have committed a serious crime punishable by the Swiss Penal Code.

The website invited users to "[r]equest a Swiss banking consultation today" by clicking a link to a "Consultation Request" form that asked for information about a user's country of residence, telephone number, and e-mail address. The third-party website operator provided this information to Swiss Bank A Client Advisors, who then sent e-mails from Switzerland to the United States, among other places, promoting Swiss Bank A's private banking and asset management services. In this manner, MICHAEL BERLINKA and ROGER KELLER, the defendants, and other Client Advisors collectively sent more than 100 such e-mails to

the United States soliciting new business. In certain cases where U.S. taxpayers responded to such e-mails, Client Advisors sent by Federal Express hard copies of the bank's promotional materials to U.S. taxpayers in the United States. This process eventually resulted in Swiss Bank A obtaining new undeclared accounts holding millions of dollars in total for U.S. taxpayers. Managing Partner A and other managing partners of Swiss Bank A received quarterly updates on the progress of this advertising program. Managing Partner A approved all payments to the website operator.

14. As a result of this and other business development efforts, the total value of undeclared accounts held by U.S. taxpayers at Swiss Bank A increased substantially over time. As of in or about 2005, Swiss Bank A hid approximately \$240 million in undeclared assets for U.S. taxpayer-clients. By in or about 2010, this amount rose to at least \$1.2 billion.

**Swiss Bank A Opens New Undeclared Accounts  
For U.S. Taxpayers Fleeing UBS**

15. In or about May and June 2008, the United States Government's criminal investigation of UBS's U.S. cross-border banking business became publicly known and received widespread media coverage in Switzerland and the United States. At or about that time, many U.S. taxpayers with undeclared accounts at UBS began to understand that the investigation might result in

the disclosure of their identities and UBS account information to the IRS.

16. On or about July 17, 2008, UBS announced that it was closing its U.S. cross-border banking business. Thereafter, UBS client advisors began to notify their U.S. taxpayer-clients that UBS was closing their undeclared accounts. Some UBS client advisors told such clients that they could continue to maintain undeclared accounts at Swiss Bank A and certain other Swiss private banks. At or about that time, it became widely known in Swiss private banking circles that Swiss Bank A was opening new undeclared accounts for U.S. taxpayers.

17. In or about 2008, the Managing Partners affirmatively decided to take advantage of the flight of U.S. taxpayers with undeclared accounts by opening new undeclared accounts for many of them at Swiss Bank A. Thereafter, in or about 2008 and 2009, Swiss Bank A opened new undeclared accounts for at least 70 U.S. taxpayers. Most of these were opened at Swiss Bank A's Zurich Branch.

18. In or about 2008, Managing Partner A announced this decision to certain personnel of the Zurich Branch. At or about the time of this announcement, another Swiss Bank A executive ("Executive A") stated to personnel of the Zurich Branch that Swiss Bank A was not exposed to the risk of prosecution that UBS faced because Swiss Bank A was smaller than

UBS, and that Swiss Bank A could charge high fees to its new U.S. taxpayer-clients because these clients were afraid of prosecution in the United States.

19. At or about the time Managing Partner A announced this decision, Managing Partner A supervised the creation of a list of Client Advisors at the Zurich Branch who were available to meet with potential U.S. taxpayer-clients who walked into the Zurich Branch without an appointment seeking to open new undeclared accounts. Thereafter, in or about 2008 and 2009, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and other Client Advisors met with many new potential U.S. taxpayer-clients who arrived at Swiss Bank A with and without appointments. In these meetings, BERLINKA, FREI, KELLER and other Client Advisors interviewed the potential U.S. taxpayer-clients about their backgrounds, the sources of their funds, and the amount of money they wished to transfer from UBS to Swiss Bank A, among other things. In many cases, Managing Partner A or Executive A joined these interviews. During these meetings, the U.S. taxpayers typically presented their U.S. passports for inspection and/or copying; advised that that they were U.S. citizens or legal permanent residents of the United States; confirmed that UBS was closing their accounts; and completed certain account opening documents. These documents typically included a standard Swiss banking form called "Form A," which

clearly identified the U.S. taxpayer as the beneficial owner of the account. In some cases, as described in more detail below, the Client Advisors sought to reassure their new U.S. taxpayer-clients that Swiss Bank A would not disclose their identities or account information to the IRS.

20. In preparation for these meetings, Managing Partner A and Executive A supervised videotaped training sessions with Client Advisors of Swiss Bank A's Zurich Branch to instruct them on their delivery of certain selling points to be made to U.S. taxpayers fleeing UBS. These selling points included the fact that Swiss Bank A had no branches outside Switzerland and was small, discreet, and, unlike UBS, not in the media.

21. In this manner, Swiss Bank A opened new undeclared accounts for at least 70 U.S. taxpayers. When such accounts were opened, they were designated with a special code that indicated to personnel within Swiss Bank A, among other things, that the accounts were undeclared. At some point in or about 2008 or 2009, the Zurich Branch required that the opening of all new U.S. taxpayer accounts had to be approved by Managing Partner A or Executive A.

22. From in or about March 2009 up through and including in or about October 2009, approximately 14,000 U.S. taxpayers voluntarily disclosed to the IRS undeclared accounts

held at banks around the world, including Swiss Bank A. As part of this process, dozens of U.S. taxpayers requested from Swiss Bank A copies of their account records so that they could fully disclose their accounts to the IRS. Swiss Bank A complied with many of these requests. The records that Swiss Bank A sent to the United States included transaction confirmations and other documents listing the names of many Swiss Bank A Client Advisors, including MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants. In response to the expected disclosure of the names of Client Advisors to the IRS through these records, in or about 2009, Managing Partner A announced to certain personnel within the Zurich Branch that the format of certain Swiss Bank A account-related documents would be changed so that the name of the Client Advisor would no longer appear on these documents. On a rolling basis from in or about late 2009 up through and including in or about early 2010, this change was implemented such that the names of the Client Advisors no longer appeared on certain records relating to undeclared accounts held by U.S. taxpayers, and "Team International," or a similar designation, appeared instead.

23. In or about mid-2009, Swiss Bank A stopped opening new undeclared accounts for U.S. taxpayers but did not, at that time, close its existing undeclared U.S. taxpayer accounts. In or about August 2011, Swiss Bank A sent letters to

U.S. taxpayer-clients stating that it had "decided to no longer serve US persons" effective December 31, 2011.

24. In or about the end of 2009 or the beginning of 2010, after Swiss Bank A stopped opening new undeclared accounts for U.S. taxpayers, MICHAEL BERLINKA, the defendant, and Executive A opened at least three new undeclared accounts for U.S. taxpayers. Each of these U.S. taxpayers had at least two passports -- one from the United States and one from a second country -- and each had recently been expelled from Swiss Bank No. 1, a Swiss private bank that maintained an office in the Southern District of New York until in or about 2008. In each case, BERLINKA and Executive A opened the new undeclared account under the passport of the second country, even though BERLINKA and Executive A were well aware that the U.S. taxpayer had a U.S. passport.

New Undeclared Accounts Opened by MICHAEL BERLINKA

25. In or about 2008 and 2009, in the wake of widespread attention in the Swiss media to the Department of Justice's criminal tax investigation of UBS, MICHAEL BERLINKA, the defendant, opened and managed new undeclared accounts for numerous U.S. taxpayers, including the following:

Client A

26. Client A lived with her husband in Boca Raton, Florida, at all times relevant to this Indictment and became a

naturalized citizen in 2003. In or about 1987, Client A became the beneficial owner of an undeclared account at UBS and its predecessor bank; at various times her husband was a joint owner of the account. In or about July 2008, Client A's UBS client advisor, Gian Gisler, advised Client A and her husband that she must close her UBS account because she was American. Gisler instructed Client A and her husband not to call UBS from the United States, and told them that he was leaving UBS. Gisler invited Client A to move her account with Gisler to another bank, but she declined. Gisler then recommended Swiss Bank A and noted that it was a reliable bank that had no offices in the United States.

27. In or about September 2008, Client A and her husband traveled to Zurich to close her UBS account. By that time, Gisler had left UBS and Client A had a new UBS client advisor. The new UBS client advisor instructed them not to call from the United States, promised that UBS would not give their information to U.S. authorities, and endorsed Swiss Bank A as a bank at which to hold their account.

28. During the same trip to Zurich in September 2008, Client A and her husband walked to Swiss Bank A and met with MICHAEL BERLINKA, the defendant. BERLINKA interviewed Client A and her husband about their personal background and the source of their funds, among other things. Client A and her husband

informed BERLINKA that they were U.S. citizens, provided their U.S. passports for copying, and informed BERLINKA they would be transferring funds from UBS. BERLINKA opened a new account beneficially owned by Client A using the code name "N1641" on or about September 19, 2008. At that time, Swiss Bank A received, and thereafter maintained in its files, a Form A signed by Client A stating that Client A was the beneficial owner of the account. In addition, Swiss Bank A received and thereafter maintained in its files another form stating that Client A was "a U.S. citizen"; was "the beneficial owner of all income from US sources deposited in the [account] in accordance with US tax law; and "was not entitled to or does not want to claim any reliefs [sic] from United States Withholding Tax."

29. MICHAEL BERLINKA, the defendant, told Client A and her husband that they would be safe at Swiss Bank A and that BERLINKA had been instructed not to disclose their account information to United States authorities. In addition, BERLINKA instructed Client A and her husband not to call or send faxes to Swiss Bank A from the United States and explained that Swiss Bank A would not send mail to them in the United States.

30. On multiple occasions in or about 2008 and 2009, Client A or her husband called BERLINKA from the United States to notify him that they would be traveling to Aruba. Once in Aruba, Client A or her husband called and/or faxed BERLINKA to

request that he send checks to them in the United States. In response, BERLINKA sent checks drawn on the Stamford Correspondent Account from Switzerland to Client A in Boca Raton, Florida by private letter carrier. All the checks, which were payable to Client A, later cleared through the Stamford Correspondent Account. In addition, the checks were issued in the amount of \$8,500 to help avoid detection of the account by the IRS. The checks included the following:

| Check No.     | Approximate Date of Check | Approximate Amount |
|---------------|---------------------------|--------------------|
| 3416          | 11/25/2008                | \$8,500            |
| 3417          | 11/25/2008                | \$8,500            |
| 3418          | 11/25/2008                | \$8,500            |
| 3468          | 01/05/2009                | \$8,500            |
| 3469          | 01/05/2009                | \$8,500            |
| 3470          | 01/05/2009                | \$8,500            |
| 3510          | 02/26/2009                | \$8,500            |
| 3511          | 02/26/2009                | \$8,500            |
| 3512          | 02/26/2009                | \$8,500            |
| 3552          | 04/21/2009                | \$8,500            |
| 3553          | 04/21/2009                | \$8,500            |
| 3554          | 04/21/2009                | \$8,500            |
| 3659          | 08/25/2009                | \$8,500            |
| 3660          | 08/25/2009                | \$8,500            |
| <b>Total:</b> |                           | <b>\$119,000</b>   |

31. In or about September 2009, Client A and her husband received a letter informing them that their names and UBS account information might be provided to the IRS in connection with the August 2009 agreement between UBS and the United States to disclose bank records relating to approximately 4,450 U.S. taxpayers who had undeclared accounts at UBS. Alarmed by this news, Client A's husband called BERLINKA from

the United States to raise this issue. On this call, BERLINKA advised Client A's husband not to make a voluntary disclosure to the IRS and assured him that their account information would not be provided to the IRS.

32. As of on or about October 8, 2008, Client A's undeclared Swiss Bank A account held approximately \$2,332,860 million.

#### Clients B and C

33. MICHAEL BERLINKA, the defendant, also opened and managed an undeclared account for a married couple, Clients B and C. At all times relevant to this Indictment, Clients B and C were U.S. citizens and residents of Florida.

34. In or about 2008, UBS notified Clients B and C that they must close their undeclared UBS account, which they had maintained since the late 1990s. Client B asked Gisler, his former UBS client adviser, who by then had moved to another firm, if he knew anyone at Swiss Bank A who could help them move their account out of UBS. Gisler recommended MICHAEL BERLINKA, the defendant, and helped arrange a meeting between Clients B and C and BERLINKA at Swiss Bank A's office in Zurich in or about October 2008. At that meeting, Clients B and C showed BERLINKA their U.S. passports, provided their U.S. address, stated that they wanted to deposit approximately \$900,000, and noted that UBS was closing their account. During this meeting,

BERLINKA was joined by Managing Partner A. Managing Partner A further interviewed Clients B and C about their personal background, among other things. Thereafter, Managing Partner A approved the opening of an undeclared account for Clients B and C.

35. At the time this account was opened, Swiss Bank A received and thereafter maintained in its files a Form A stating that Clients B and C resided in Florida and were the beneficial owners of the account. Attached to the Form A for Clients B and C were copies of their U.S. passports. In addition, MICHAEL BERLINKA, the defendant, agreed on behalf of Swiss Bank A that it would not send mail to Clients B and C in the United States and that Clients B and C could conduct business with Swiss Bank A using a code name, "N1677." And because Client B did not want to use his real name when he called Swiss Bank A from the United States, BERLINKA set up the account so that Client B could use another code name -- "Elvis" -- when calling from the United States. Thereafter, on one or two occasions, Client B called BERLINKA from the United States to check his approximate account balance, which BERLINKA provided to Client B.

36. As of on or about December 31, 2008, the undeclared Swiss Bank A account owned by Clients B and C held approximately \$873,958.

37. Some of the U.S. taxpayer-clients with undeclared accounts whose Client Advisor was MICHAEL BERLINKA, the defendant, are described in the following table. None of these U.S. taxpayers timely reported their Swiss Bank A accounts (or the income earned therein) to the IRS on Form 1040 or the FBAR where they were required to do so.

| Beneficial Owner(s) | Code Name(s) or Nominee Name(s) in which Swiss Bank A Account(s) Held | Approximate Dates of UBS Account(s) | Approximate Date Swiss Bank A Account(s) Opened | Approximate High Value of Swiss Bank A Accounts |
|---------------------|---|-------------------------------------|---|---|
| Client A            | N1641   | 1987-2008                           | 09/2008   | \$2,544,609                                     |
| Clients B and C     | N1677; Elvis  | 1998-2008                           | 10/2008   | \$873,000                                       |
| Client D            | Limpopo Foundation  | 1970s-2008                          | 12/2008   | \$30,895,000                                    |
| Client E            | Hackate Foundation  | 1999-2008                           | 12/12/2008                                      | \$1,241,644                                     |
| <b>Total</b>        |   |                                     |   | <b>\$35,554,253</b>                             |

New Undeclared Accounts Opened by URS FREI

38. From in or about 2006 up through and including in or about 2010, URS FREI, the defendant, opened and/or serviced dozens of undeclared accounts for U.S. taxpayers. As of in or about 2006, FREI managed undeclared accounts for approximately 20 U.S. taxpayers holding approximately \$40 million in assets. By in or about 2010, FREI managed undeclared accounts for approximately 50 U.S. taxpayers holding approximately \$260 million in assets. Within Swiss Bank A's Zurich Branch, other client advisors frequently sought FREI's advice concerning their undeclared U.S. taxpayer accounts, and some of those client advisors transferred such accounts to him. In or about 2006 and 2007, FREI traveled several times to the

United States for U.S. taxpayer-client business. In particular, in or about August and September 2007, FREI traveled to New York, New York, and to San Diego, San Francisco, Marina del Rey, and Santa Monica, California. In addition, from on or about October 19, 2006 to on or about August 31, 2009, FREI sent approximately 16 Federal Express packages relating to Swiss Bank A U.S. taxpayer-client business to addresses in the United States, including several packages sent to potential new U.S. taxpayer-clients.

39. In or about 2008 and 2009, in the wake of the widespread attention in the Swiss media relating to the United States Government's criminal investigation of UBS's U.S. cross-border banking business, URS FREI, the defendant, opened new undeclared accounts for numerous U.S. taxpayers, including the following:

Clients F and G

40. For example, URS FREI, the defendant, served as the client advisor at Swiss Bank A for two separate undeclared accounts maintained by two brothers ("Clients F and G") who were, at all times relevant to this Indictment, U.S. citizens and residents of Bayside, New York.

41. In or about August 2008, Clients F and G traveled from New York to Zurich to meet with their client advisor at UBS, where they had held separate undeclared accounts since in

or about the 1960s. The UBS client advisor informed Clients F and G that they must close their UBS accounts, and that other U.S. taxpayers with undeclared accounts were transferring funds to other Swiss banks, including Swiss Bank A.

42. Clients F and G then walked to the Zurich Branch of Swiss Bank A, which was nearby, and asked to open a new account for each of them. They were received by URS FREI, the defendant. FREI interviewed Clients F and G and inspected their U.S. passports. Clients F and G told FREI that they wanted to transfer assets from UBS to Swiss Bank A.

43. FREI opened separate undeclared accounts for Clients F and G and assisted with the transfer of their funds from UBS to Swiss Bank A: approximately \$3.4 million for Client F and \$800,000 for Client G. In addition, FREI established the accounts in code names ("N1 PULTUSK" and "N1 DREW" respectively) so that their names would appear on a minimal number of records relating to their accounts.

44. After opening their accounts, FREI gave his business card to Clients F and G and told them to call him if they needed anything. Thereafter, on multiple occasions in or about 2008 and 2009, Clients F and/or G called FREI from the United States and spoke to FREI or one of his assistants about the status and growth of their accounts.

45. As of in or about October 2009, the undeclared Swiss Bank A accounts owned by Clients F and G held approximately \$3.4 million and \$800,000 respectively.

Clients H and I

46. URS FREI, the defendant, also served as the client advisor at Swiss Bank A for an undeclared account maintained jointly by Clients H and I. At all times relevant to this Indictment, Clients H and I were U.S. citizens and residents of New Jersey.

47. In or about November 2008, Clients H and I's UBS client advisor notified them that they must close their undeclared UBS account. Client H asked his UBS client advisor to refer him to another Swiss bank so that Clients H and I could continue to maintain an undeclared account. The UBS client advisor recommended Swiss Bank A and two other Swiss banks.

48. Clients H and I walked to the Zurich Branch of Swiss Bank A and were received by URS FREI, the defendant. FREI told Clients H and I that he handled American accounts for Swiss Bank A. FREI interviewed Clients H and I about their personal background and the amount they wished to deposit. Clients H and I showed their U.S. passports to FREI and told him that they would transfer a total of approximately \$1 million from UBS to Swiss Bank A.

49. On or about November 13, 2008, URS FREI, the defendant, opened a new account for Clients H and I. At that time, Swiss Bank A promised Clients H and I that they could conduct business with the bank using the code name "N5771." Swiss Bank A also promised not to send mail to Clients H and I in the United States. In addition, FREI instructed Clients H and I not to call him from the United States. Later, in or about July 2009, FREI lifted this restriction after Clients H and I informed him that they had disclosed their Swiss Bank A account to the IRS.

50. As of on or about July 14, 2009, the undeclared Swiss Bank A account owned by Clients H and I held approximately \$1,105,593.

#### Clients J and K

51. URS FREI, the defendant, also opened and managed an undeclared Swiss Bank A account for Clients J and K, a married couple. At all times relevant to this Indictment, Clients J and K were United States citizens living in Los Angeles, California.

52. In or about 2008, Clients J and K, who had maintained an undeclared account at UBS and one of its predecessor banks since in or about the 1980s, were advised by their UBS client adviser that they must close their undeclared UBS account. Clients J and K then spoke to an attorney in Los

Angeles ("the Los Angeles Attorney"), who advised them to create an offshore entity and open an account in the name of the entity with URS FREI, the defendant, at Swiss Bank A. Thereafter, in or about November 2008, at the Los Angeles Attorney's office, Clients J and K completed account opening documents for a new account to be held at Swiss Bank A in the name of White Tower Holdings, LLC, a corporation formed under the laws of Nevis. These documents included (1) a Form A stating that Clients J and K, U.S. citizens living in Los Angeles, California, were the beneficial owners of the White Tower Holdings; (2) copies of the U.S. passports of Clients J and K, which were attached to the Form A; (3) a separate bank form in which Clients J and K falsely stated that White Tower Holdings (rather than Clients J and K) was the "beneficial owner of all income from US sources deposited in the above-mentioned portfolio(s), in accordance with US tax law[]"; and (4) Forms W-9 signed by Clients J and K, even though the account was undeclared. The Los Angeles Attorney then sent the signed documents to FREI at Swiss Bank A.

53. In or about November 2008, Clients J and K traveled to Zurich and Client K met with URS FREI, the defendant, at Swiss Bank A. FREI advised Client K that mail would not be sent to Clients J and K in the United States. FREI also advised that ROGER KELLER, the defendant, would be FREI's secondary contact at the bank. (Client K eventually met KELLER

on a later trip.) The next day, Clients J and K met with FREI again to discuss the wiring of their funds from UBS to Swiss Bank A.

54. As of on or about September 30, 2009, the undeclared Swiss Bank A account owned by Clients J and K held approximately \$614,408.

Clients L and M

55. URS FREI, the defendant, was also the client advisor for an undeclared account maintained at Swiss Bank A by Clients L and M, a married couple. At all times relevant to this Indictment, Clients L and M were U.S. citizens and residents of Florida.

56. In or about December 2008, the UBS client advisor for Clients L and M notified them that they must close their undeclared UBS account, which they had held in the name of an entity called the Magabri Foundation, a sham foundation incorporated under the laws of Liechtenstein. The UBS client advisor further informed Clients L and M that they could open an account at Swiss Bank A. The UBS client advisor spoke to URS FREI, the defendant, on behalf of Clients L and M and learned that FREI was willing to open a new account for them in the name of the Magabri Foundation, the sham entity through which Clients L and M had held their undeclared UBS account.

57. The UBS client advisor then arranged for, and accompanied Clients L and M to, a meeting with URS FREI, the defendant, at Swiss Bank A's Zurich Branch in or about January 2009. At or about that time, FREI was informed that Clients L and M were U.S. citizens living in Florida, and that UBS was closing their account.

58. On or about January 12, 2009, URS FREI, the defendant, opened two new undeclared accounts for Clients L and M in the name of the Magabri Foundation. At that time, Swiss Bank A received and thereafter maintained in its files a Form A declaring that Clients L and M were the beneficial owners of the accounts and attaching their U.S. passports. In addition, Swiss Bank A promised not to send mail to Clients L and M in the United States, and FREI instructed Client L not to call him from the United States. FREI lifted the instruction not to call from the United States in or about November 2009 after Client L notified FREI that he had disclosed the Magabri Foundation accounts to the IRS.

59. As of on or about December 31, 2009, the undeclared accounts owned by Clients L and M at Swiss Bank A held approximately \$2,729,318.

60. Some of the undeclared U.S. taxpayer-clients of URS FREI, the defendant, are described in the following table. None of these U.S. taxpayers timely reported their Swiss Bank A

accounts (or the income earned therein) to the IRS on Form 1040 or the FBAR where they were required to do so.

| Beneficial Owner(s)   | Code Name(s) or Nominee Name(s) in which Swiss Bank A Account(s) Held | Approximate Dates of UBS Account(s) | Approximate Date Swiss Bank A Account(s) Opened | Approximate High Value of Swiss Bank A Accounts |
|-----------------------|---|-------------------------------------|---|---|
| Client F              | N1 PULTUSK  | 1960s - 2008                        | 08/2008   | \$3,200,000                                     |
| Client G              | N1 DREW   | 1960s - 2008                        | 08/2008   | \$800,000                                       |
| Clients H and I       | N5571   | 2006 - 2008                         | 11/13/2008                                      | \$1,105,593                                     |
| Clients J and K       | White Tower Holdings  | 1980s - 2008                        | 11/6/2008                                       | \$614,408                                       |
| Clients L and M       | Magabri Foundation  | 1997 - 2009                         | 1/12/2009                                       | \$2,729,318                                     |
| Clients N and O       | Efraim Foundation   | 1973 - 2008                         | 06/2008   | \$52,747,000                                    |
| Arthur Joel Eisenberg | N1126   | 1983 - 2008                         | 12/10/2008                                      | \$2,234,608                                     |
| <b>Total</b>          |   |                                     |   | <b>\$60,980,927</b>                             |

New Undeclared Accounts Opened by ROGER KELLER

61. From in or about 2007 up through and including at least in or about 2010, ROGER KELLER, the defendant, opened and serviced undeclared accounts for dozens of U.S. taxpayers. By in or about the end of 2008, KELLER managed undeclared accounts for at least 30 U.S. taxpayers holding approximately \$120 million in total. On or about February 9, 2007, and December 15 and December 16, 2008, KELLER sent approximately three Federal Express packages relating to Swiss Bank A U.S. taxpayer-client business to addresses in the United States.

62. In or about 2008 and 2009, in the wake of widespread attention in the Swiss media to the United States Government's criminal investigation of UBS's illegal U.S. cross-border banking business, ROGER KELLER, the defendant, opened new undeclared accounts for numerous U.S. taxpayers, including the following:

Client P

63. For example, ROGER KELLER, the defendant, served as the client advisor for an undeclared account maintained by Client P. At all times relevant to this Indictment, Client P was a U.S. citizen and resident of Maryland.

64. In or about 2008, UBS advised Client P that he must close his undeclared UBS account, which he had maintained since in or about 1970. Because Client P's deteriorating health did not permit him to travel to Switzerland, Client P's son traveled to Zurich in or about November 2008 to close Client P's UBS account and identify another Swiss private bank that would allow Client P to maintain an undeclared account. When Client P's son asked Client P's UBS client advisor where he should move Client P's money, the UBS client advisor gave the names of three Swiss banks, one of which was Swiss Bank A. Client P's son chose Swiss Bank A.

65. On or about November 3, 2008, Client P's son walked into Swiss Bank A's Zurich Branch without an appointment

and asked to open an account. ROGER KELLER, the defendant, interviewed Client P's son. Client P's son told KELLER that he and Client P were U.S. citizens who lived in the United States and that Client P had held an account at UBS for a long time.

66. On or about the following day, November 4, 2008, ROGER KELLER, the defendant, advised Client P's son that his supervisor had approved the opening of a new account for Client P, so long as the account was opened in the name of Client P's son because Client P was not present in Zurich. KELLER then opened an account in the name of Client P's son. At that time, Swiss Bank A received and thereafter maintained in its files a Form A stating that Client P's son, who lived in Manhattan, was the sole beneficial owner of the account. A copy of Client P's son's U.S. passport was attached to the Form A. In addition, at the time the account was opened, Swiss Bank A received and thereafter maintained in its files a document stating that Client P's son was "the beneficial owner of all income from US sources deposited in the [account] in accordance with US tax law." Further, on the same document, with respect to the application of any double taxation treaty, Client P's son stated that he was "not entitled to or does not want to claim any reliefs [sic] from United States Withholding Tax." Swiss Bank A promised not to send account statements or other mail relating to the account to the United States.

67. As of on or about September 30, 2009, Client P's undeclared Swiss Bank A account held approximately \$732,938.

Client Q

68. ROGER KELLER, the defendant, was also the client advisor for an undeclared Swiss Bank A account owned by Client Q. At all times relevant to this Indictment, Client Q was a U.S. citizen and resident of California.

69. In or about December 2008, Client Q's UBS client advisor informed him that he must close his undeclared UBS account, which he had owned since in or about 1987. Thereafter, Client Q's previous UBS client advisor told him that Swiss Bank A was willing to open new undeclared accounts for U.S. taxpayers.

70. In or about January 2009, because Client Q was unable for health reasons to travel to Zurich to close his UBS account, his son traveled in his place. Client Q's previous UBS client advisor set up an appointment at Swiss Bank A and accompanied Client Q's son to meet with ROGER KELLER, the defendant, and a Swiss Bank A Zurich Branch supervisor on or about January 5, 2009. At this initial meeting, KELLER and the supervisor interviewed Client Q's son about his personal background, the source of the funds, and the amount that he wished to deposit, among other things. Client Q's son informed KELLER and the supervisor that he was a U.S. citizen and that he

wanted to transfer approximately \$7 million from UBS to Swiss Bank A.

71. Later that day, ROGER KELLER, the defendant, advised Client Q's son by telephone that Swiss Bank A would open an account for him. Client Q's son then returned to the bank and completed various paperwork. At that time, KELLER asked Client Q's son whether he wanted to complete an IRS Form W-9, a form through which a U.S. taxpayer can identify himself as such to a bank and thereby require the bank to report the U.S. taxpayer's account income to the IRS on a Form 1099 each year. Client Q's son advised KELLER that he did not wish to complete the Form W-9. In addition, KELLER agreed that Swiss Bank A would not send mail relating to the account to the United States.

72. KELLER and Client Q's son discussed what had occurred with respect to UBS's cross-border banking business, and KELLER assured Client Q's son that Swiss Bank A was a very old and well-established bank.

73. In or about August 2009, the United States and UBS reached an agreement providing that UBS would disclose to the IRS account records for approximately 4,450 of its undeclared U.S. taxpayer-clients. The following month, Client Q and his son traveled to Zurich and met with ROGER KELLER, the defendant, and a Swiss Bank A lawyer. In the context of a

discussion about the news that UBS would disclose 4,450 account files to the IRS, KELLER and the Swiss Bank A lawyer assured Client Q and his son that Client Q's account was safe and that their names would not be released to the United States authorities.

74. As of on or about March 31, 2010, Client Q's undeclared Swiss Bank A account held approximately \$7,173,679.

75. Client P, Client Q, and four other undeclared U.S. taxpayer-clients of ROGER KELLER, the defendant, are described in the following table. None of these U.S. taxpayers timely reported their Swiss Bank A accounts (or the income earned therein) to the IRS on Form 1040 or the FBAR where they were required to do so.

| Beneficial Owner(s) | Code Name(s) or Nominee Name(s) in which Swiss Bank A Account(s) Held | Approximate Dates of UBS Account(s) | Approximate Date Swiss Bank A Account(s) Opened | Approximate High Value of Swiss Bank A Accounts |
|---------------------|---|-------------------------------------|---|---|
| Client P            | Client P's Son  | 1970-2008                           | 2008  | \$732,938                                       |
| Client Q            | Client Q's Son  | 1987-2009                           | 1/5/2009  | \$7,173,679                                     |
| Clients R & S       | Client R's financial advisor  | 1970s                               | 12/19/2008                                      | \$3,667,724                                     |
| Clients T & U       | TMT Family Foundation   | 1981-10/2008                        | 11/2008   | \$1,247,649                                     |
| <b>Total</b>        |   |                                     |   | <b>\$12,821,990</b>                             |

### New Undeclared Accounts Opened by Client Advisor A

76. From in or about 2005 up through and including in or about 2010, Client Advisor A opened and serviced at least seven U.S. taxpayer-clients with undeclared accounts at Swiss Bank A. From on or about October 9, 2006 to on or about April 15, 2009, Client Advisor A sent dozens of Federal Express packages relating to Swiss Bank A U.S. taxpayer-client business to addresses in the United States.

77. In or about 2008 and 2009, in the wake of widespread attention in the Swiss media to the U.S. Government's criminal investigation of UBS, Client Advisor A and other Swiss Bank A client advisors opened and thereafter serviced numerous new undeclared U.S. taxpayer accounts.

### Client V

78. For example, Client Advisor A opened and maintained an undeclared account for Client V at Swiss Bank A. Client V was, at all times relevant to this Indictment, a U.S. citizen and resident of Florida.

79. Beginning in or about 2005, Client V owned undeclared accounts at UBS and the International Bank. In or about 2008 and 2009, both UBS and the International Bank required Client V to close his undeclared accounts.

80. On or about April 14, 2009, Client V's client advisor at International Bank informed Client V that Swiss Bank

A was opening new undeclared accounts for U.S. taxpayers who were being expelled from the International Bank. Client V then walked to the Zurich Branch of Swiss Bank A, arrived without an appointment, and asked to open an account.

81. At that time, Client Advisor A interviewed Client V about his personal background, the source of his funds, and how much he wished to deposit at Swiss Bank A, among other things. Client V told Client Advisor A that UBS and International Bank were closing his accounts; showed Client Advisor A his U.S. passport; and told Client Advisor A that he wished to deposit approximately \$5.7 million. Client Advisor A, with the express approval of Managing Partner A, [REDACTED] to open the account through a "structure" -- that is, a sham offshore entity -- rather than in Client V's own name.

82. To establish the "structure," on or about that same day, April 14, 2009, Client Advisor A invited an employee of a Swiss trust and fiduciary company that provides tax and legal services ("Swiss Trust Advisor A") to meet with Client V. At that meeting, Swiss Trust Advisor A then sold Client V an off-the-shelf sham entity incorporated under the laws of Panama called the Nitro Foundation. Client Advisor A, in turn, opened a new account at Swiss Bank A for Client V in the name of the Nitro Foundation. In written materials that Swiss Trust Advisor A provided to Swiss Bank A, Swiss Trust Advisor A acknowledged

that Client V's account would be undeclared. At that time, Swiss Bank A received and thereafter maintained in its files a Form A declaring that Client V, a U.S. citizen and resident of Florida, was the beneficial owner of the Nitro Foundation account. In addition, Swiss Bank A promised that it would not send mail to Client V in the United States. Thereafter, Client V instructed UBS and the International Bank to transfer his funds to the Nitro Foundation account at Swiss Bank A. Based on the advice of Client V's client advisors at UBS and the International Bank, the funds were transferred in Swiss francs so that the transactions would occur entirely in Switzerland.

83. At or about the time Client V opened his account at Swiss Bank A, Client Advisor A instructed Client V to use text messages to communicate with him, rather than telephone calls, because law enforcement authorities did not yet have the ability to track the huge volume of text messages that were written around the world. In addition, Client Advisor A assured Client V that his account would remain safe at Swiss Bank A because the bank was very old, had a rich tradition, and did not do business in the United States.

84. In or about June 2009, Client Advisor A met with Client V in Miami, Florida.

85. As of on or about October 15, 2009, Client V's undeclared Swiss Bank A account held approximately \$4,175,000.

Client W

86. Client Advisor A also opened and managed an undeclared account owned by Client W. Client W was, at all times relevant to this Indictment, a U.S. citizen and resident of California.

87. In or about 2008, UBS advised Client W that his undeclared UBS account, which he had inherited from his father in 1999, would be closed. In or about the following month, Client W asked Swiss Trust Advisor A how he could continue to maintain an undeclared account in Switzerland. Swiss Trust Advisor A referred Client W to Swiss Bank A and accompanied him to meet Client Advisor A at Swiss Bank A's Zurich Branch.

88. At this meeting, Client Advisor A interviewed Client W about his personal background, the source of his funds, and the history of his UBS account, among other things. Client W told Client Advisor A that he was a U.S. citizen living in the United States, showed identification documents to Client Advisor A, and told Client Advisor A that UBS was closing his account. Client Advisor A told Client W that Swiss Bank A would not have the same problems as UBS because Swiss Bank A did not have business operations in the United States.

89. Approximately one month later, on or about December 19, 2008, Client W returned to Swiss Bank A's Zurich office, met with Client Advisor A, and opened an account in the

name of Herzen Resources S.A., a sham Panama-registered corporation that Swiss Trust Advisor A had previously sold to Client W. At that time, Swiss Bank A received and thereafter maintained a Form A declaring that Client W, a U.S. citizen and resident of California, was the beneficial owner of the Herzen Resources account. In addition, Swiss Bank A promised not to send mail to Client W in the United States.

90. In or about the summer of 2009, Client Advisor A told Client W that Swiss Bank A had stopped opening new accounts for U.S. clients, and that Client W was lucky that he had been able to open the account.

91. As of on or about September 30, 2009, Client W's undeclared account at Swiss Bank A held approximately \$8,685,502.

#### Statutory Allegations

92. From at least in or about 2005 up through and including in or about 2010, in the Southern District of New York and elsewhere, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, together with 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 7206(1) and 7201.

93. It was a part and an object of the conspiracy that MICHAEL BERLINKA, URS FREI, ROGER KELLER, together 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.

94. It was further a part and an object of the conspiracy that various U.S. taxpayer-clients of MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, 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 these U.S. taxpayer-clients, 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).

95. It was further a part and an object of the conspiracy that MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, 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 by certain of Swiss Bank A's U.S. taxpayer clients, in violation of Title 26, United States Code, Section 7201.

Overt Acts

96. In furtherance of the conspiracy and to effect the illegal objects thereof, MICHAEL BERLINKA, URS FREI, ROGER KELLER, the defendants, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about September 19, 2008, BERLINKA opened a new undeclared Swiss Bank A account in the name of Client A for the purpose of helping Client A hide assets and income from the IRS.

b. On or about November 25, 2008; January 5, 2009; February 26, 2009; April 21, 2009; and August 25, 2009, BERLINKA caused Swiss Bank A to send by Federal Express multiple checks in the amount of \$8,500 to Client A in the United States.

c. In or about October 2008, BERLINKA opened a new undeclared Swiss Bank A account in the name of Clients B and C for the purpose of helping Clients B and C hide assets and income from the IRS.

d. On or about November 4, 2008, KELLER opened a new undeclared Swiss Bank A account in the name of Client P's

son, who was a resident of Manhattan, for the purpose of helping Client P hide assets and income from the IRS.

e. On or about January 5, 2009, KELLER opened a new undeclared Swiss Bank A account in the name of Client Q's son, for the purpose of helping Client Q hide assets and income from the IRS.

f. On or about November 13, 2008, FREI opened a new undeclared Swiss Bank A account for Clients H and I for the purpose of helping them hide assets and income from the IRS.

g. On or about January 12, 2009, FREI opened two new undeclared Swiss Bank A accounts for Clients L and M for the purpose of helping them hide assets and income from the IRS.

h. In or about 2008, Kenneth Heller, a U.S. taxpayer who lived and worked in Manhattan, opened a new undeclared account at Swiss Bank A for the purpose of hiding income and assets from the IRS. Heller then transferred approximately \$19 million from UBS to Swiss Bank A.

i. In or about October 2008, in response to a fax and a letter sent by one of Heller's employees to Swiss Bank A, Swiss Bank A wired approximately \$50,000 to an account that Heller controlled in the United States.

j. On various occasions in or about 2008 and 2009, in response to telephone and fax requests that Heller made from locations in Manhattan and New Jersey to the Liechtenstein Asset Manager who managed Heller's account at Swiss Bank A, the Liechtenstein Asset Manager mailed or sent by courier service from Liechtenstein to the United States checks drawn on Swiss Bank A's Stamford Correspondent Account for the benefit of Heller, his wife, and his associates. For example, on or about July 8, 2009, Heller caused Swiss Bank A to issue from the Stamford Correspondent Account approximately 12 checks in the amount of \$2,500 for the benefit of Heller's wife. The Liechtenstein Asset Manager then sent these checks to Heller in the United States.

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

  
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FOREPERSON

  
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PREET BHARARA  
United States Attorney

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v.-

MICHAEL BERLINKA,  
URS FREI, and  
ROGER KELLER

Defendants.

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INDICTMENT

12 Cr. \_\_\_\_\_ (\_\_\_\_\_)

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

\_\_\_\_\_  
PREET BHARARA  
United States Attorney.

A TRUE BILL



\_\_\_\_\_  
Foreperson.

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