IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

CASE NO.
08-21864-MC-LENARD/GARBER

IN THE MATTER OF THE TAX
LIABILITIES OF:

JOHN DOES, United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2007, had signature or other authority (including authority to withdraw funds; to make investment decisions; to receive account statements, trade confirmations, or other account information; or to receive advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through any office in Switzerland of UBS AG or its subsidiaries or affiliates and for whom UBS AG or its subsidiaries or affiliates (1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all reportable payments made to such United States taxpayers.

DECLARATION OF DANIEL REEVES

I, Daniel Reeves, pursuant to 28 U.S.C. Section 1746, declare and state:

1. I am a duly commissioned Internal Revenue Agent and Offshore Compliance Technical Advisor employed in the Small Business/Self Employed Business Division of the Internal Revenue Service and am assigned to the Internal Revenue Service's Offshore Compliance Initiative. The Offshore Compliance Initiative develops projects, methodologies, and techniques for identifying United States taxpayers who are involved in abusive offshore transactions and financial arrangements for tax avoidance purposes. I have been an Internal Revenue Agent for more than thirty years and have specialized in offshore investigations for the

last eight years. As an Internal Revenue Agent, I have received training in tax law and audit techniques, including specialized training in abusive offshore tax issues, and have extensive experience in investigating offshore tax matters.

2. For the past six years I have been the lead investigator for the Internal Revenue Service's Offshore Credit Card Project and other offshore compliance initiatives. I developed many of the investigative techniques and procedures being used to identify United States taxpayers with offshore bank accounts. I am also one of the developers of the Internal Revenue Service's offshore training programs for investigators and have participated as an instructor and expert at numerous presentations and training sessions on identifying offshore accounts.

3. The Internal Revenue Service is now investigating United States taxpayers who maintain accounts with UBS AG in Switzerland but who have not provided to UBS (via Forms W-9) their taxpayer identification numbers and other information necessary for reporting to the Internal Revenue Service (via Forms 1099) taxable income earned from their Swiss accounts. To facilitate this investigation, the Internal Revenue Service, once authorized by the Court, will issue under the authority of Section 7602 of the Internal Revenue Code (26 U.S.C.), a "John Doe" summons to UBS. A copy of this summons is attached as Exhibit A.

4. UBS is a Swiss bank with branches around the world and with a major presence in the United States. UBS provides, among other services, private banking services to wealthy United States taxpayers. The records sought by the summons will reveal the identities of and disclose transactions by persons who may be liable for federal taxes and will enable the Internal Revenue Service to investigate whether those persons have complied with the internal revenue laws.

5. Based on information received by the Internal Revenue Service, it is likely that the persons in the "John Doe" class may have been under-reporting income, evading income taxes, or otherwise violating the internal revenue laws of the United States.

6. The "John Doe" summons to UBS relates to the investigations of an ascertainable group or class of persons. There is a reasonable basis for believing that this group or class of persons has failed or may have failed to comply with provisions of the internal revenue laws. The information and documents sought to be obtained from the examination of the records or testimony (and the identity of the persons with respect to whose tax liabilities the summonses have been issued) are not readily available from sources other than UBS.

I. THE SUMMONS DESCRIBES AN ASCERTAINABLE CLASS OF PERSONS

7. The proposed "John Doe" summons seeks information regarding United States taxpayers who, at any time between December 31, 2002 and December 31, 2007, had financial accounts with UBS in Switzerland, and for whom UBS (1) did not have in its possession IRS Forms W-9, and (2) had not submitted timely and accurate IRS Forms 1099 to United States taxing authorities reporting all reportable payments made to the United States taxpayers.

8. This class of persons is easily ascertainable by UBS. As explained below, UBS divides their United States taxpayer clients into those who provide an IRS Form W-9 and those who do not. The very nature of private banking suggests that UBS will be conversant with virtually all of a client's significant financial affairs, including the formation of controlled foreign entities and the opening of foreign accounts. Private banking requires that the primary client advisor be familiar with all of the financial affairs of the client in order to advise the client on a

comprehensive financial plan. For these reasons, UBS will be able to readily ascertain the identity of the proposed "John Doe" class.

II. REASONABLE BASIS FOR BELIEF THAT THE 'JOHN DOE' CLASS HAS FAILED TO COMPLY WITH INTERNAL REVENUE LAWS

A. A United States Taxpayer Who Fails to Disclose Taxable Payments Has Failed to Comply with the Internal Revenue Laws

9. United States taxpayers are required to file annual income tax returns reporting to the Internal Revenue Service their income from all sources worldwide. Taxpayers who fail to include taxable payments on their income tax returns have failed to comply with the internal revenue laws.

10. As will be described in further detail below, the "John Doe" class is limited to United States taxpayers with UBS accounts in Switzerland who affirmatively chose not to provide to UBS Forms W-9 disclosing their status as United States taxpayers, and for whom UBS did not submit Forms 1099 reporting to the Internal Revenue Service all of their reportable payments. Based on my experience with offshore accounts, taxpayers who choose not to provide the documents necessary for proper reporting do so in order to conceal their income from the Internal Revenue Service. The fact that these United States taxpayers chose not to submit Forms W-9 to UBS, thus choosing to remain "undeclared," provides a reasonable basis to believe that they have failed to comply with the internal revenue laws. Because it does not know the identities of those in the "John Doe" class, the Internal Revenue Service cannot yet audit these United States taxpayers' income tax returns to determine whether they reported such payments.

B. The Tradition of Offshore Tax Haven or Financial Privacy Jurisdictions

11. The Internal Revenue Service has been concerned with the growing problem of United States taxpayers, involved in both lawful and unlawful activities, evading the payment of United States taxes by concealing unreported taxable income in accounts in offshore tax haven or financial privacy jurisdictions. I summarize below several studies that describe the use of offshore tax haven or financial privacy jurisdictions and provide a background of the offshore private banking system.

a. The Gordon Report

12. On January 12, 1981, the Internal Revenue Service issued a report entitled "Tax Havens and Their Use by United States Taxpayers - An Overview," commonly known as the "Gordon Report" for its author, Richard A. Gordon, Special Counsel for International Taxation. The Gordon Report was based on a review of judicial decisions and published literature in the field of international tax planning, research into internal Internal Revenue Service documents concerning taxpayer activities, interviews with Internal Revenue Service personnel, personnel who dealt with tax haven issues for other federal government agencies, and lawyers and certified public accountants who specialized in international taxation. Additionally, the findings in the Gordon Report were based on a statistical analysis of available data concerning international banking, United States direct investment abroad and foreign investment in the United States.

13. The Gordon Report states that the available data support the view that taxpayers ranging from large multi-national companies to individuals and criminals are making extensive use of tax haven and financial privacy jurisdictions. The Gordon Report concluded that there are:

> enormous and growing levels of financial activity and accumulation of funds in tax havens [as well as a] large number of transactions involving illegally earned income and legally earned income which is diverted to or passed through havens for purposes of tax evasion.

b. The Crime and Secrecy Report

14. On August 28, 1985, the Permanent Subcommittee on Investigations of the United States Senate Governmental Affairs Committee issued a report entitled "Crime and Secrecy: The Use of Offshore Banks and Companies." The Crime and Secrecy Report summarized the offshore problem as follows:

> The subcommittee found that the criminal exploitation of offshore havens is flourishing because of haven secrecy and foreign government intransigence in the face of overwhelming evidence of dirty money in their banking systems. The effect has been to systematically obstruct U.S. law enforcement investigations, erode the public's confidence in our criminal justice system, and thwart the collection of massive amounts of tax revenues.

15. The report includes a quote from Senator William V. Roth, Chairman of the subcommittee regarding the committee's findings on the use of tax haven and financial privacy jurisdictions by American citizens:

> But equally shocking is the fact that we have also found that offshore havens are no longer used exclusively by criminals. Instead, they are increasingly being used by otherwise law abiding Americans to avoid paying taxes and to shield assets from creditors.

16. The Crime and Secrecy Report estimated that the "underground economy" at that time (1985) was hiding between $150 billion and $600 billion apparently unreported income from both legal and illegal business from the Internal Revenue Service. Furthermore, it stated that the underground economy was unquestionably linked to the use of offshore facilities.

c. The United Nations Report

17. On May 29, 1998, the United Nations' Office for Drug Control and Crime Prevention, Global Programme Against Money Laundering, released a report entitled "Financial Havens, Banking Secrecy and Money Laundering." The United Nations Report (at http://www.imolin.org/imolin/finhaeng.html) states that offshore financial centers, tax havens and bank secrecy jurisdictions --

> attract funds partly because they promise both anonymity and the possibility of tax avoidance or evasion. A high level of bank secrecy is almost invariably used as a selling point by offshore financial centers. Many Internet advertisements for banks emphasize the strictness of the jurisdiction's secrecy and assure the prospective customers that neither the bank nor the government will ever give bank data to another government. When the advertising is for private banks, it also stresses the protection from tax collectors.

United Nations Report, Part II, "The Global Financial System."

d. Offshore Private Banks

18. Private banks are operational units within banks that specialize in providing financial and related services to wealthy individuals, primarily by acting as a financial advisor, estate planner, credit source, and investment manager.

19. To open an account in a private bank, prospective clients usually must deposit a substantial sum, often $1 million or more. In return for this deposit, the private bank assigns a "private banker" or "client advisor" to act as a liaison between the client and the bank and to facilitate the client's use of a wide range of the bank's financial services and products. Those products and services often span the globe, enabling the client to benefit from services in carefully selected offshore jurisdictions that tout their strong financial privacy laws.

20. Offshore private banking practices have received considerable attention in recent years. The Senate Permanent Subcommittee on Investigations issued a report concluding that:

> Most private banks offer a number of products and services that shield a client's ownership of funds. They include offshore trusts and shell corporations, special name accounts, and codes used to refer to clients or fund transfers.
>
> All of the private banks interviewed by the Subcommittee staff made routine use of shell corporations for their clients. These shell corporations are often referred to as "private investment corporations" or PICs. They are usually incorporated in [tax haven or financial privacy] jurisdictions . . . which restrict disclosure of a PIC's beneficial owner. Private banks then open accounts in the name of the PIC, allowing the PIC's owner to avoid identification as the account holder.

Minority Staff Report for Permanent Subcommittee on Investigations Hearing on Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities, November 9, 1999, pp. 881-882.

21. Similarly, the Federal Reserve Bank of New York concluded, after a study of forty institutions engaged in private banking, that:

> Most banking institutions maintain and manage accounts for PICs in their U.S. offices; in fact, frequently PICs are established for the client – the beneficial owner of the PIC – by one of the institution's affiliated trust companies in an offshore secrecy jurisdiction. The majority of these institutions employ the sound practice of applying the same general KYC ["Know Your Customer"] standards to PICs as they do to personal private banking accounts – they identify and profile the beneficial owners. Most institutions had KYC documentation on the beneficial owners of the PICs in their U.S. files.

Federal Reserve Bank of New York, Guidance on Sound Risk Management Practices Governing Private Banking Activities, July 1997.

22. More recently, the Senate Permanent Subcommittee on Investigations issued a report describing this "sophisticated offshore industry," noting that:

> A sophisticated offshore industry, composed of a cadre of international professionals including tax attorneys, accountants, bankers, brokers, corporate service providers, and trust administrators, aggressively promotes offshore jurisdictions to U.S. citizens as a means to avoid taxes and creditors in their home jurisdictions. These professionals, many of whom are located or do business in the United States, advise and assist U.S. citizens on opening offshore accounts, establishing sham trusts and shell corporations, hiding assets offshore, and making secret use of their offshore assets here at home. Experts estimate that Americans now have more than $1 trillion in assets offshore and illegally evade between $40 and $70 billion in U.S. taxes each year through the use of offshore tax schemes . . . Utilizing tax haven secrecy laws and practices that limit corporate, bank, and financial disclosures, financial professionals often use offshore tax haven jurisdictions as a "black box" to hide assets and transactions from the Internal Revenue Service ("IRS"), other U.S. regulators, and law enforcement.

Minority & Majority Staff Report for Permanent Subcommittee on Investigations Hearing on Tax Haven Abuses: The Enablers, The Tools and Secrecy, August 1, 2006, p. 1.

23. Thus, although a United States taxpayer may open a private account in Switzerland, it is often the case that the bank will form a foreign shell entity in a third jurisdiction to act as the nominal owner of the assets. Keeping the account in the name of a foreign entity enables the bank to avoid reporting to the Internal Revenue Service payments that were essentially made to the United States taxpayer (the true owner of the account). The banks remove all visible connections between United States taxpayers and the offshore accounts by structuring the arrangement to appear as though foreign entities are the actual and sole beneficial owners.

C. UBS & Bradley Birkenfeld

24. UBS is a bank headquartered in Switzerland with branches throughout the United States, including two in Miami, Florida. According to its 2007 Annual Report, relevant portions of which are attached as Exhibit B, UBS provides "a comprehensive range of products and services, individually tailored for wealthy and affluent clients around the world . . ." According to the Annual Report, UBS Wealth Management International & Switzerland reported a record "net new money intake" of 125 billion Swiss Francs for 2007 alone, "leading to an all-time high in invested assets of [1,294 billion Swiss Francs] . . ."

25. On October 12, 2007, I interviewed Bradley Birkenfeld, a former employee of UBS, regarding his practices as a client advisor for United States taxpayers with UBS accounts in Switzerland. On June 19, 2008, Birkenfeld pleaded guilty to conspiring to assist Igor Olenicoff, a United States taxpayer, evade paying $7.2 million in taxes by assisting him to conceal $200 million of assets. Attached as Exhibit C is Birkenfeld's executed Statement of Facts offered at his allocution ("Statement"). Although the Statement does not specifically name UBS, I know from my prior conversation with Birkenfeld that UBS is indeed the "Swiss Bank" referenced in his Statement. Similarly, although Birkenfeld's indictment and Statement refers to an individual with the initials "I.O.," according to an article appearing in the Wall Street Journal and attached as Exhibit D, Olenicoff's attorney has confirmed this is indeed a reference to Olenicoff. The following description is based on information gathered during my interview with Birkenfeld and from his Statement.

26. Birkenfeld worked with UBS Global Wealth Management International & Switzerland. His primary duties being to acquire and develop new clients in the United States,

Birkenfeld was one of approximately 40 to 50 private banking employees of UBS who, with the encouragement of UBS management, traveled to the United States on a quarterly basis to service United States taxpayers. In order to avoid detection by U.S. authorities, according to Birkenfeld, UBS trained its bankers when entering the United States to state falsely on customs forms that they were traveling for pleasure rather than for business. UBS private bankers also traveled with encrypted laptop computers containing clients' portfolios.

27. According to Birkenfeld, UBS assisted wealthy United States taxpayers conceal their assets in offshore UBS accounts nominally held by sham entities formed in overseas jurisdictions, many of which were tax havens. UBS collaborated with United States taxpayers to prepare false and misleading IRS Forms W-8BEN ("Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding") claiming that the sham entities owned the accounts, and they failed to prepare and file IRS Forms W-9 ("Request for Taxpayer Identification Number and Certification") that should have identified the United States taxpayers as the owners of the accounts. Because it was made to appear as though non-United States taxpayers owned the accounts, UBS would not submit Forms 1099 reporting income earned on the offshore accounts. By concealing the United States taxpayers' ownership and control over the assets in the offshore accounts, UBS assisted these United States taxpayers evade the reporting and payment of their income taxes.

28. During our interview, Birkenfeld provided to me a letter from UBS addressed to all of its United States taxpayer clients with offshore accounts dated November 4, 2002. UBS sent the letter following its entry into a Qualified Intermediary Agreement ("Q.I. Agreement") with the Internal Revenue Service in order to assuage concerns of United States taxpayers that

the Q.I. Agreement would result in the disclosure of their identities to U.S. authorities. The Declaration of Barry Shott contains a full explanation of the Q.I. Agreement. In this letter UBS advised that United States taxpayers who did not want to provide Forms W-9 would continue to enjoy anonymity, and their identities would not be shared with U.S. authorities. This letter, which is attached as Exhibit E, states in part:

> The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in U.S. securities but under no circumstances will his/her identity be revealed. Consequently, UBS's entire compliance with its QI obligation does not create the risk that his/her identity be shared with U.S. authorities.

29. Because it assisted certain United States taxpayers conceal their ownership of the accounts, UBS divided its United States taxpayer clients into two groups: (1) those who were willing to submit Forms W-9 and have the bank file Forms 1099 reporting their earned income, and (2) those who wished to remained "undeclared."

30. UBS, through Birkenfeld, assisted Igor Olenicoff, a high-profile United States taxpayer, to conceal his ownership of offshore UBS accounts. Igor Olenicoff's story is illustrative because he is similarly situated to the "John Doe" class described in the summons. Many of Birkenfeld's representations regarding his dealings with Olenicoff have been extensively covered by both the national and the international media. Some of these news articles are attached as composite Exhibit F. According to a Wall Street Journal article attached as Exhibit D, Olenicoff was "a major player in Southern California real estate after starting his company, Olen Properties, in 1973." According to the article, Forbes magazine listed Olenicoff as the 286th richest U.S. citizen with an estimated worth of approximately $1.7 billion.

31. According to Birkenfeld, Olenicoff, with UBS's assistance, formed a Bahamian corporation and fraudulently completed an IRS Form W-8BEN to make it appear as though the corporation was the beneficial owner of an offshore account that he had with UBS. To this and other bogus entities, Olenicoff transferred $60 million, as well as a 147-foot yacht. Because it was in the name of a foreign entity, UBS did not report to the Internal Revenue Service any payments made to the account, and Olenicoff was able to refrain from reporting the income secure in the knowledge that UBS would maintain the traditional secrecy of Swiss accounts. In December 2007, Olenicoff pleaded guilty to a criminal count of filing a false 2002 tax return for omitting income earned from the offshore assets.

32. In a document attached as Exhibit G, UBS describes similar tactics to assist United States taxpayers evade the reporting and payment of their income taxes in a document found on its own website (last visited June 18, 2008). The document is called "Qualified Intermediary System: US withholding tax on dividends and interest income from US securities," and in it UBS acknowledges that:

> While the main issue concerning [offshore entities] is whether they really are companies and also whether they really are the beneficial owner of the assets as defined by US tax law (facts which can be confirmed using the appropriate forms), the basic problem with trusts and foundations is that US tax law tends to regard them as transparent intermediaries with corresponding disclosure obligations.

For those clients who wish to use such trusts and foundations but who also wish to avoid the "corresponding disclosure obligations," the document continues, in relevant part, as follows (emphasis added):

> [I]f there is no desire to disclose the identities of either the bank's contracting partner or the beneficial owner to the US tax authorities, the possible alternatives

> are for US securities to be excluded from the portfolio, for the beneficial owner to hold them directly, *or for a structure to be put in place between the foundation/trust and the bank* which itself serves as an independent, non-transparent beneficial owner (e.g. a legal entity/corporation/company) and submits documentation to the QI to this effect.

33. Based on what I have learned from Birkenfeld and from UBS's website, it appears that UBS offered, throughout the years addressed by the "John Doe" summons, undeclared offshore accounts to United States taxpayers. In a document found on its own website, UBS suggests putting a "structure in place" between the beneficial owner and the bank in order to avoid disclosure of their beneficial ownership of the account to the Internal Revenue Service. In short, UBS, in plain language, suggests using a nominee entity as a means of avoiding the reporting requirements of the U.S. tax laws.

34. United States taxpayers in the "John Doe" class who choose to remain undisclosed to the Internal Revenue Service are likely failing to comply with the Internal Revenue Code provisions governing a United States taxpayer's obligations to report and pay tax on world-wide income. Given my general knowledge and experience concerning taxpayers who use banking and other services in offshore tax havens and financial privacy jurisdictions, as well as Birkenfeld's Statement, and the story of Olenicoff, I believe it is reasonable to believe that the unidentified United States taxpayers described as the John Doe class, above, may have failed to comply with provisions of the internal revenue law of the United States.

III. THE REQUESTED MATERIALS ARE NOT READILY AVAILABLE FROM OTHER SOURCES

35. As described in the Declaration of Barry Shott, the United States potentially has two means of obtaining Swiss banking records other than through UBS's compliance with the

proposed John Doe summons. First, the United States Competent Authority may make an official request to the Swiss government pursuant to the Convention between the United States and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income ("the Swiss treaty"). Second, the United States has a Mutual Legal Assistance Treaty (MLAT) with Switzerland which contains a mechanism for the exchange of information in certain circumstances. The MLAT, however, authorizes the exchange of information only in connection with a United States criminal investigation of specific charges. Here, the Internal Revenue Service is not currently conducting a criminal investigation of the John Doe class. By its terms, therefore, the MLAT is not available to obtain information for this civil investigation.

36. As Mr. Shott states in his declaration, the Swiss treaty historically has been applied by the Swiss to require that a request for records identify the particular taxpayer whose records are sought. We cannot identify the specific members of the John Doe class. Although the Swiss government has indicated a willingness to consider a treaty request for the records of the John Doe class of taxpayers, there is no guarantee the request will be successful since Swiss courts could have the final say in whether the records are produced under the Swiss treaty. Furthermore, proceeding under the Swiss treaty, which involves action by the Swiss government and its judicial system, might result in delays that could delay the investigation of the taxpayers in the John Doe class. Section 6501 of the Internal Revenue Code imposes a general three-year period of limitations on the assessment of taxes after a return is filed and a six-year period for returns with a substantial omission of income. A lengthy delay in pursuing a possibly unsuccessful treaty request could jeopardize the timely assessment of taxes against the taxpayers whose records are sought in this summons due to the expiration of the statute of limitations.

37. Finally, the source of any information obtained in response to a request made under the Swiss treaty is the same source from which the Internal Revenue Service will seek information pursuant to the summons – UBS. A request pursuant to the Swiss treaty is a request that the Swiss government use its legal processes to obtain information from UBS. UBS is the only source for the information, whether obtained in response to the Swiss treaty or the John Doe summons. I am not aware of any other institution or person that could provide this information without getting it from UBS in the first instance.

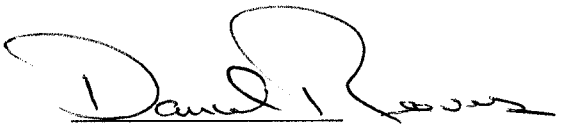
38. In light of the above, the records sought by the John Doe summons are not otherwise reasonably and timely available to the Internal Revenue Service.

IV. CONCLUSION

39. As a general proposition, Internal Revenue Service's experience has shown a direct correlation between unreported income and the lack of visibility of that income to the Internal Revenue Service. That is, income not subject to third party reporting (such as on Forms 1099) is far more likely to go unreported than income that is subject to such reporting. This general proposition is buttressed by examples such as Igor Olenicoff. In short, the Internal Revenue Service's experience provides a reasonable basis to believe United States taxpayers with "undeclared" offshore accounts with UBS are not in compliance with internal revenue laws with respect to such accounts.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct.

Executed this 26th day of June 2008.



DANIEL REEVES
Revenue Agent
Internal Revenue Service

Exhibit A
to the
Reeves Declaration

Summons

In the matter of Tax Liability of John Does*

Internal Revenue Service (Division): Small Business/Self Employed Division

Industry/Area (name or number): Area

Periods: Years ending 12/31/2002, 12/31/2003, 12/31/2004, 12/31/2005, 12/31/2006, and 12/31/2007

The Commissioner of Internal Revenue

To: UBS AG

At:

You are hereby summoned and required to appear before Daniel Reeves or Designee an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

See attachment

* "John Does" are United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2007, had signature or other authority (including authority to withdraw funds; to make investment decisions; to receive account statements, trade confirmations, or other account information; or to receive advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through any office in Switzerland of UBS AG or its subsidiaries or affiliates in Switzerland, and for whom UBS AG or its subsidiaries or affiliates (1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all payments made to such United States taxpayers.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

Telephone:

Place and time for appearance at IRS, 51 S.W. First Ave., Miami, Florida; Telephone: (305)

IRS

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

on the _____ day of _____, _____ (year) at _____ o'clock _____ m.

Issued under authority of the Internal Revenue Code this _____ **day of** _____, _____ (year).

Signature of issuing officer

Territory Manager
Title

Signature of approving officer *(if applicable)*

Title

Original — to be kept by IRS

Attachment to "John Doe" Summons to UBS AG

1. For each financial account maintained at, monitored by or managed through any Switzerland office of UBS AG or its subsidiaries or affiliates, if, at any time during the years ended December 31, 2002 through December 31, 2007:

(A). any United States taxpayer had signature or other authority over such account;

(B). UBS AG did not have in its possession a Form W-9 executed by the United States taxpayer; and,

(C). UBS AG did not file a timely and accurate Form 1099 with United States taxing authorities;

(i). naming the United States taxpayer; and,

(ii). reporting all reportable payments made to the United States taxpayer;

please provide all account records for the period January 1, 2002, through the date of compliance with this summons, including but not limited to:

a. documents identifying each United States taxpayer by name, address, telephone number, date of birth, or taxpayer identification number;
b. documents pertaining to any foreign entities established or operated on behalf of each United States taxpayer;
c. documents identifying any relationship managers, domestic and foreign, for each United States taxpayer during the period;
d. documents pertaining to the opening of such financial accounts and/or the creation of foreign entities created for or on behalf of each United States taxpayer during the period, including, but not limited to, desk files or other records of the relationship manager, e-mails, facsimiles, memoranda of telephone conversations, memoranda of activity, and other correspondence;
e. documents, including but not limited to, monthly or other periodic statements and records of wire transactions, reflecting the activity of such financial accounts and of such financial accounts maintained in the names of any foreign entity

established or operated on behalf of each United States taxpayer; and,

f. documents pertaining to the referral of each United States taxpayer to UBS offices in Switzerland, including, but not limited to, desk files or other records of the relationship manager, e-mails, facsimiles, memoranda of telephone conversations, memoranda of activity, and other correspondence, and records of any UBS office processing such referrals, including specifically:

    i. documents identifying the UBS office in Switzerland to which the referral was directed and any accounts established;
    ii. documents reflecting annual or other periodic balances of accounts opened at the UBS office in Switzerland receiving the referral and any activity in such accounts; and,
    iii. documents reflecting the receipt of fees by a UBS office for referral of each United States taxpayer, a UBS office servicing the United States taxpayer, or a relationship manager with respect to the referral, documents reflecting how such fees were calculated, and documents reflecting bonuses paid or evaluations given to any UBS employee with reference to such referrals.

2. Please also provide, for the period January 1, 2002, through the date of compliance with this summons, records of wire transfers, and annual account summaries or other annual statements for each domestic financial account held by any United States taxpayer (or by any foreign entity established or operated on behalf of a United States taxpayer) who, at any time during the years ended December 31, 2002 through December 31, 2007, held a Swiss UBS branch financial account with the attributes listed in Part 1(A), (B), and (C), above; or by (2) any foreign financial entity established or operated on behalf of a United States taxpayer.

3. For purposes of this summons "United States taxpayer" means any person with an address in the United States or who is known to UBS or any of its employees or agents, through its business records, anti-money laundering due diligence, or know your customer practices, or through any other means, to be a United States citizen or resident.

4. For purposes of this summons, "UBS office" means any office bearing the name UBS in whole or in part, or holding itself out to the public as part of UBS, including any office controlled by UBS AG, including but not limited to the office of the parent bank, any UBS branch office, and any subsidiary or affiliate of UBS AG.

5. For purposes of this summons, "financial account" means a bank account, securities account or other financial account of any kind.

6. For purposes of this summons, "domestic financial account" means a financial account at a financial institution doing business inside the United States.

7. For purposes of this summons, "foreign entity" means a corporation, limited liability company, international business company, personal investment company, partnership, trust, anstalt, stiftung, or other legal entity created under the laws of a jurisdiction other than the United States.

8. For the purpose of this summons, the word "documents" refers to any electronic, written, printed, typed, graphically, visually or aurally reproduced materials of any kind or other means of preserving thought or expression, recording events or activities, and all tangible things from which information can be processed or transcribed, including, but not limited to:

(A). contracts, agreements, plans, summaries, opinions, reports, commentaries, communications, correspondence, memoranda, minutes, notes, comments, messages, telexes, telegrams, teletypes, cables, facsimiles, wire instructions and electronic mail; and,

(B). video and/or audio tapes, cassettes, films, microfilm, spreadsheets, databases, computer discs and other information which is stored or processed by means of data processing equipment and which can be retrieved in printed or graphic form.

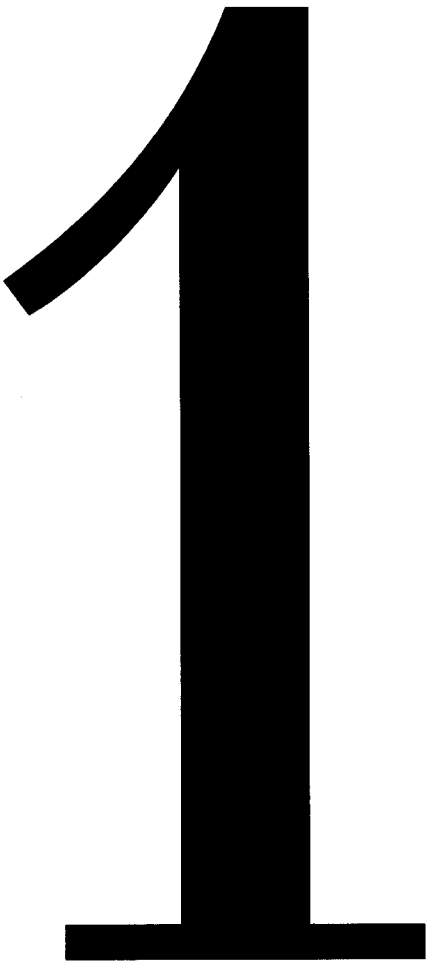
9. For the purpose of this summons, you are required to produce all documents described in this attachment, whether located in the United States, Switzerland, or elsewhere, that are in your possession, custody, or control, or otherwise accessible or available to you either directly or through other entities, including but not limited to offices of UBS AG or its

subsidiaries or affiliates (such as UBS Private Bank) in Zurich, Geneva, or Lugano. Where documents are prepared, stored or maintained in electronic form, they are required to be produced in electronic form together with any instructions, record descriptions, data element definitions, or other information needed to process them in electronic form.

Exhibit B
to the
Reeves Declaration

UBS

Annual Report 2007



Contents

Global Wealth Management & Business Banking

- Leading global provider of financial services for wealthy clients
- Top bank for individual and corporate clients in Switzerland
- Record profitability and net new money inflows in 2007

Business description

Global Wealth Management & Business Banking comprises the following business units, which are reported separately:

Wealth Management International & Switzerland provides a comprehensive range of products and services, individually tailored for wealthy and affluent clients around the world (except domestic US clients), via its extensive global branch network and through financial intermediaries. An open product platform gives clients access to a wide array of pre-screened, top-quality products from third-party providers that complement UBS's own lines.

Wealth Management US offers sophisticated products and services specifically designed to address the needs of emerging affluent, affluent, high net worth and ultra-high net worth domestic US clients.

Business Banking Switzerland offers high-quality, standardized products to the retail market for individual and small company clients, as well as more complex products and advisory services for larger corporate and institutional clients and financial institutions in Switzerland.

Performance in 2007

Wealth Management International & Switzerland

- Record net new money intake of CHF 125.1 billion (CHF 97.6 billion in 2006) leading to an all-time high in invested assets of CHF 1,294 billion (up 14% from 2006)
- Record pre-tax profit of CHF 6,306 million (up 21% compared with 2006)
- Cost/income ratio improved for the fifth consecutive year to 50.9%

Wealth Management US

- 23% year-on-year increase in performance before tax to CHF 718 million despite weakening of the US dollar. Record recurring income and lower general and administrative expenses
- Strong net new money intake of CHF 26.6 billion (CHF 15.7 billion in 2006). Invested assets increased to CHF 840 billion reflecting rising markets, net new money intake and the first-time inclusion of McDonald Investments

Business Banking Switzerland

- Record performance before tax of CHF 2,460 million (CHF 2,356 million in 2006), mainly due to income growth
- Continued high level of efficiency with cost/income ratio of 57.3%

Exhibit C
to the
Reeves Declaration

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-CR-60099-ZLOCH

UNITED STATES OF AMERICA

vs.

BRADLEY BIRKENFELD,

Defendant.

_____/

STATEMENT OF FACTS

The United States Attorneys Office for the Southern District of Florida, the United States Department of Justice, Tax Division, and the defendant, Bradley Birkenfeld (hereinafter referred to as the "defendant Birkenfeld") and his counsel agree that, had this case proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt, and that the following facts are true and correct and are sufficient to support a plea of guilty:

The Qualified Intermediary Program

Beginning in 2000, the Internal Revenue Services ("IRS") sought to increase the collection of tax revenues without raising tax rates. In furtherance of this mission, the IRS established the Qualified Intermediary ("Q.I.") Program. Pursuant to the Q.I. Program, foreign banks voluntarily entered into Qualified Intermediary agreements with the IRS pursuant to which these foreign banks agreed to identify and document any customers who held U.S. investments, which were generally marketable securities and bonds, or received United States source income into their off-shore accounts. In accordance with IRS requirements, foreign banks agreed to have their customers fill out IRS Forms W-8BEN, which required the beneficial owner of a bank account to be identified on the form, or IRS Forms W-9, which required United States beneficial owners of bank accounts to be identified.

Foreign banks further agreed to issue IRS Forms 1099 to United States customers for United States source payments of dividends, interest, rents, royalties and other fixed or determinable income paid into the United States customers' off-shore bank accounts. Alternatively, if a client refused to be identified under the Q.I. Agreement, foreign banks agreed to withhold and pay over a twenty-eight percent withholding tax on U.S. source payments and then bar the client from holding U.S. investments. In addition, the sales proceeds, interest and

dividends earned on non-United States investments, if the purchase or sale of the investment was made as a result of contact (in person, via email, telephone or fax) with the U.S. client in the United States, were subject to the Form 1099 reporting requirements or twenty-eight percent withholding. These transactions are referred to under the Q.I. Program as "deemed sales."

In January 2001, a large Swiss bank ("Swiss Bank"), entered into a Q.I. agreement with the IRS. Swiss Bank owns and operates banks, investment banks and stock brokerage businesses throughout the world, and has locations in the United States, with branch locations in the Southern District of Florida. This agreement was a major departure from historical Swiss bank secrecy laws under which Swiss banks concealed bank information for United States clients from the IRS. At all relevant times to this indictment, the Swiss bank represented to the IRS that it had continued to honor this Qualified Intermediary agreement.

Defendant Birkenfeld's Employment

During the entire period from 1998 through 2006, defendant Birkenfeld was employed by various banks in Switzerland as a private banker primarily servicing United States clients. From 1998 through July 2001, defendant Birkenfeld was employed by Barclays Bank in Geneva, Switzerland. In 2001, Barclays Bank entered into a Q.I. agreement with the IRS. In order to comply with the terms of the Q.I. agreement, Barclays Bank decided to terminate its off-shore private banking business for United States clients that refused to complete an IRS Form W-9. Accounts owned by United States clients that refused to fill out IRS Forms W-9 were known in the off-shore banking business as "undeclared" accounts.

From 2001 through 2006, defendant Birkenfeld was employed as a director in the private banking division of a large Swiss bank ("Swiss Bank"), which owns and operates banks, investments banks, and stock brokerage businesses throughout the world, including the United States, with offices in the Southern District of Florida. A manager at the Swiss Bank assured defendant Birkenfeld that even though the Swiss Bank signed a Q.I. Agreement, the Swiss Bank was committed to continue to provide private banking services to United States clients who wished for their accounts to remain undeclared. Swiss Bank managers authorized and encouraged defendant Birkenfeld and other private bankers to travel to the United States to solicit new clients and conduct banking for existing United States clients. The Swiss Bank sponsored events in the United States where Swiss bankers met with U.S. clients, including Art Basel in Miami and the NASDAQ 100 tennis tournament in Miami. The Swiss Bank trained bankers traveling to the United States in techniques to avoid detection by United States law enforcement authorities, including training bankers to falsely state on customs forms that they were traveling into the United States for pleasure and not business. Defendant Birkenfeld, Swiss Bank managers and bankers knew that they were not licensed to provide banking services, offer investment advice or solicit the purchase or sale of securities through contact with clients in the United States.

The Tax Fraud Scheme

When the Swiss Bank notified its U.S. clients of the requirements of the Q.I. agreement, many of the Swiss Bank's wealthy U.S. clients refused to be identified, to have taxes withheld from the income earned on their offshore assets, or to sell their U.S. investments. To these clients, the Q.I. reporting requirements defeated the purpose of opening a Swiss bank account; to conceal their accounts from the IRS and to evade U.S. income taxes. These accounts were known at the Swiss Bank as the United States undeclared business. Rather than risk losing the approximately $20 billion of assets under management in the United States undeclared business, which earned the bank approximately $200 million per year in revenues, managers and bankers at the Swiss Bank, including defendant Birkenfeld, assisted these wealthy U.S. clients in concealing their ownership of the assets held offshore by assisting these clients in creating nominee and sham entities. These entities were usually set up in tax haven jurisdictions, including Switzerland, Panama, British Virgin Islands, Hong Kong and Liechtenstein. Defendant Birkenfeld, Swiss Bank managers and bankers and U.S. clients prepared false and misleading IRS Forms W-8BEN that claimed that the owners of the accounts were sham off-shore entities and failed to prepare and file IRS Forms W-9 that should have identified the owner of the account, the U.S. client.

Managers and bankers at the Swiss Bank, including defendant Birkenfeld, maintained relationships with Swiss and Liechtenstein businessmen, such as Mario Staggl, who would set up these nominee and sham entities for the Swiss Bank's U.S. clients and pose as owners or directors of these entities. By concealing the U.S. clients' ownership and control in the assets held offshore, defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes.

In order to further assist U.S. clients in concealing their Swiss bank accounts, defendant Birkenfeld, Mario Staggl, other private bankers and managers at the Swiss Bank and others advised U.S. clients to:

place cash and valuables in Swiss safety deposit boxes;

purchase jewels, artwork and luxury items using the funds in their Swiss bank account while overseas;

misrepresent the receipt of funds from the Swiss bank account in the United States as loans from the Swiss Bank;

destroy all off-shore banking records existing in the United States, and;

utilize Swiss bank credit cards that they claimed could not be discovered by United States authorities.

On one occasion, at the request of a U.S. client, defendant Birkenfeld purchased

diamonds using that U.S. client's Swiss bank account funds and smuggled the diamonds into the United States in a toothpaste tube. Defendant Birkenfeld and Mario Staggl accepted bundles of checks from U.S. clients and facilitated the deposit of those checks into accounts at the Swiss Bank, Liechtenstein and Danish banks.

The Billionaire U.S. Real Estate Developer

Defendant Birkenfeld's largest client was a billionaire real estate developer whose initials are I.O. (hereinafter identified as "I.O."). I.O. had residences in Southern California and in Broward County, within the Southern District of Florida. On several occasions, defendant Birkenfeld, Mario Staggl and Swiss Bank managers met with I.O. in Switzerland and in the United States. It was well-known at the Swiss Bank that I.O. was a U.S. citizen, that the income earned on his accounts was subject to Q.I. withholding and reporting requirements, however, during the period from 2001 through 2005, the Swiss Bank issued no Forms 1099 to I.O., nor did the Swiss Bank report any Form 1099 information to the IRS or withhold or pay over any taxes to the IRS.

From at least 2001 through the date of the Indictment, defendant Birkenfeld conspired with Mario Staggl, an owner and operator of a Liechtenstein trust company, I.O., additional private bankers and mangers employed by the Swiss Bank, and others to defraud the United States by assisting I.O. in evading income tax on the income earned on $200 million of assets hidden offshore in Switzerland and Liechtenstein. In order to circumvent the requirements of the Q. I. Agreement, the defendant and others conspired to conceal I.O.'s ownership and control of the $200 million of assets hidden offshore by creating and utilizing nominee and sham entities.

Defendant Birkenfeld, Mario Staggl, I.O, additional private bankers and managers employed by the Swiss Bank, and others committed numerous overt acts in Broward County in the Southern District of Florida, Central District of California, Switzerland, Liechtenstein, and elsewhere in furtherance of the conspiracy, including the following:

On or about June 21, 2001, I.O. caused to be sent completed bank account opening documents for an account at the Swiss branch of a large bank based in London to defendant Birkenfeld, including a Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding that falsely and fraudulently claimed that the beneficial owner of the newly opened account was a shell corporation located in the Bahamas.

On or about July 26, 2001, defendant Birkenfeld caused to be sent an email to I.O. and others that the large bank based in London was terminating North American clients, travel and resources, and that his new employer, the Swiss Bank, had a superior network, product range and

management, and had recently acquired a large United States securities brokerage house in order to enhance United States investment expertise.

On or about October 19, 2001, defendant Birkenfeld caused to be sent via facsimile to I.O. at a United States facsimile number Swiss bank account opening documents from the Swiss Bank, including a form entitled "Verification of the beneficial owner's identity." This form, executed by I.O., falsely and fraudulently stated that I.O. was not the beneficial owner, and that a nominee Bahamian corporation was beneficial owner of the account. The application further listed I.O. as a signatory to the account.

On or about December 4, 2001, Mario Staggle recommended to I.O. that in order to further conceal I.O.'s ownership of off-shore assets, in addition to setting up Liechtenstein trusts and Dutch holding companies, I.O. should set up an entity in the British Virgin Islands, Panama or Gibraltar that "would lead to another 'safety break' in a tax and anonymity aspect."

On or about December 19, 2001, Mario Staggl caused to be executed a "Letter of Intent," which stated that New Haven Trust Company Limited, trustee of The Landmark Settlement, intended to hold the trust property for the benefit of I.O., and, after his demise, for his children.

On or about March 13, 2002, defendant Birkenfeld caused to be sent a facsimile to I.O. at a United States facsimile number listing $15 million of bonds that an investment manager at the Swiss Bank had purchased for I.O.

On or about March 25, 2002, I.O. caused to be sent a facsimile to defendant Birkenfeld authorizing defendant Birkenfeld to issue five credit cards from the Swiss Bank to I.O. and others.

On or about April 16, 2002, I.O. caused to be sent a letter to defendant Birkenfeld authorizing the wire transfer of $80 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about April 23, 2002, Mario Staggl caused to be sent an email to I.O. in the United States with instructions for I.O. to transfer a portfolio, worth approximately $60 million, containing United States securities from a brokerage house in London to an account in the name of a Danish shell corporation at a Liechtenstein bank.

On or about April 25, 2002, an unindicted co-conspirator caused to be sent an email to I.O., with a copy to Mario Staggl, that recommended that in addition to the Liechtenstein trusts

and Danish holding companies, I.O. should set up United Kingdom companies to act as nominee shareholders. As stated in the email, "... the partners appear to be U.K. companies and Liechtenstein does not appear to be connected.... The role of the U.K. companies is simply to act as nominee shareholders."

On March 25, 2002, I.O. caused to be sent a fax authorizing defendant Birkenfeld to wire transfer $39 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about May 7, 2002, Mario Staggl caused to be sent a reply email advising I.O. not to put his name on any Liechtenstein accounts because doing so could "jeopardize the structure," and reminded I.O. that he had executed blank account signature cards that Mario Staggl could use.

On or about April 15, 2003, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2002 tax year, listing his address as Sanctuary Cove, Florida that fraudulently omitted income earned on off-shore assets.

On or about May 19, 2003, Mario Staggl caused to be sent an email to I.O., with a copy to defendant Birkenfeld, that stated that Mario Staggl's lawyers in Gibraltar told him "that everything is now in order to proceed with the application to transfer ownership to Gibraltar" of I.O.'s 147 foot yacht.

On or about March 24 and March 25, 2004, defendant Birkenfeld traveled to the Southern District of Florida to meet with I.O. and a banker from the Swiss Bank's New York branch in order to solicit I.O. to take out real estate loans with the Swiss Bank using his undeclared off-shore assets as collateral.

On or about April 15, 2004, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2004, I.O. filed his United States individual income tax return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2005, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2004 tax year, listing an address in Lighthouse Point, Florida that failed to report the income earned on off-shore assets.

On or about June 12, 2005, defendant Birkenfeld and Mario Staggl met with I.O. at a Liechtenstein bank and advised him to transfer all of his assets held by the Swiss Bank to a Liechtenstein bank because Liechtenstein had better bank secrecy laws than Switzerland.

The tax loss associated with the conspiracy involving the evasion of income taxes of the approximate $200 million I.O. concealed offshore is $7,261,387 million, exclusive of penalties and interest.

Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Date: 6/10/08 By: _____
KEVIN DOWNING
SENIOR TRIAL ATTORNEY
MICHAEL P. BEN'ARY
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION

Date: 6/13/08 By: _____
JEFFREY A. NEIMAN
ASSISTANT UNITED STATES ATTORNEY

Date: 6/10/08 By: _____
DANNY ONORATO
PETER RABEN
ATTORNEYS FOR DEFENDANT

Date: 10/06/08 By: _____
BRADLEY BIRKENFELD
DEFENDANT

Exhibit D
to the
Reeves Declaration

A Creditor Shield
THE PROPERTY REPORT C1

Build Up Services
MARKETPLACE B1

STREET JOURNAL.

DAY, MAY 14, 2008 ~ VOL. CCLI NO. 113

★★★★ $1.50

)XX 50 3239.02 ▼ 0.01% **10-YR TREAS** ▼ 1 4/32, yield 3.909% **OIL** $125.80 ▲ $1.57 **GOLD** $868.50 ▼ $15.20 **EURO** $1.5478 **YEN** 104.79

ina Earthquake Exposes Widening Wealth Gap

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who had just returned

ColorChinaPhoto/News.Com

RESCUE OPERATIONS: A woman cries before a group of soldiers preparing to search for victims at a collapsed school in Dujiangyan on Tuesday. For full coverage, please see articles on **Page A22.**

from Beichuan County—one of the worst hit areas of Sichuan—described a scene of widespread devastation. A town of 20,000 was crushed when mountains surrounding it collapsed. More than half of the town's residents are still missing. He said there is not even a place to land a helicopter for supplies or rescue missions.

Rescuers have pulled out 2,000 bodies so far, but they are still finding some survivors, he said. He saw one man pulled out with an injured arm and leg. "They revived him, and then he just started to cry," the official said. They have opened up the road to about six miles away from the town, and rescuers are having to hike the rest of the way.

On the outskirts of the small city of Shifang, east of the epicenter, Fang Haiying, a 40-year-old rice farmer, said more than 10 members of her village remained buried in the rubble of their houses. She and her extended family were wearing surgical masks to protect themselves from a chemical leak at a damaged ammonia plant a few miles away. "We've been waiting but no one from the government has come. We have nothing to eat," she said.

Nearly every house in Yinhua village on Shifang's western edge was destroyed. Boulders loosed by Monday's quake, some as big as vans, littered the main road in the area, along with the vehicles they knocked over or crushed.

Survivors of the chaos walked

Please turn to the back page

Two Charged In Tax Case Tied to UBS, Billionaire

By Carrick Mollenkamp, Glenn R. Simpson And Alex Frangos

As part of a widening probe, the U.S. has charged a former UBS AG banker and a Liechtenstein consultant with helping clients avoid taxes by opening secret bank accounts, destroying documents, using Swiss credit cards and filing false tax returns.

One client was billionaire California real-estate developer Igor Olenicoff. Mr. Olenicoff set up a web of secret bank accounts in Switzerland and Liechtenstein to avoid taxes on $200 million in assets, a person familiar with the U.S. case said. Mr. Olenicoff has been cooperating with investigators in the wake of his December guilty plea to a criminal count of filing a false 2002 U.S. tax return. He was ordered to pay $52 million.

The case provides a rare window into the world of private banking—the personalized financial services offered to wealthy customers—where Switzerland's UBS has long dominated. The case could lead to other U.S. clients: The indictment says the two financiers—former UBS private banker Bradley Birkenfeld and Liechtenstein financial adviser Mario Staggl—courted rich Americans and helped some of them avoid paying taxes.

The indictments are the latest sign that elaborate tax-evasion schemes available only to the super-rich are teetering toward a collapse. New information in recent months has come from current or former bank employees who possess the names of clients.

The U.S. investigation into the

Please turn to page A17

FROM PAGE ONE

2 Charged in Case Tied to UBS, Billionaire

Continued from Page One

alleged UBS tax schemes comes amid a multinational probe into the role that Liechtenstein, a European principality, played as a tax haven for citizens from at least eight countries. That probe began after a then-employee of a Liechtenstein bank obtained and then began distributing to authorities customer data. Now, multiple countries, including the U.S., are investigating their own citizens for hiding assets in the tiny principality between Austria and Switzerland.

Mr. Birkenfeld appeared in court Tuesday where he pleaded not guilty. He is out on bond and is wearing an electronic monitoring device, a Justice Department spokeswoman said. His lawyer declined to comment.

Born and educated in the U.S., Mr. Birkenfeld has lived in Switzerland since 1996, according to the indictment. The 43-year-old worked at UBS from 2001 to 2006 and then joined another Swiss company that also operates in Miami.

He had approached U.S. prosecutors seeking to provide information on the alleged tax schemes and offering the names of UBS clients, a person familiar with the matter said. Prosecutors opted to indict him anyway.

Mr. Staggl, also 43, lives in Liechtenstein where he owns a trust company called New Haven Trust Co. Ltd. According to the indictment, Mr. Staggl has been devising tax-evasion schemes since 2001 that utilized Liechtenstein banks and Danish shell companies.

A Taxing Time

- **The News:** A former UBS private banker and a financial consultant were charged with helping a U.S. real-estate billionaire evade taxes.
- **The Background:** The heat is on elaborate tax-evasion schemes used by the wealthy.
- **The Bottom Line:** The indictment comes at a tough time for UBS, which is reeling from $38 million in subprime losses.

Mr. Staggl remains at large, prosecutors said.

The indictment comes at a difficult time for UBS. Switzerland's biggest bank already is reeling from about $38 billion in write-downs tied to subprime-mortgage loan securities and has replaced its senior leadership team this year. The U.S. investigation threatens to taint UBS's private bank, which has more assets under management than any other in the world and has long prided itself on its ability to provide confidential services to the world's wealthiest.

The Justice Department alleges that a central component of the scheme was an effort to get around a 2001 agreement between UBS and U.S. authorities that called for UBS to identify clients who received taxable U.S. income. The pact was seen as a landmark departure from historical Swiss bank-secrecy laws.

The indictment alleges the scheme with Mr. Olenicoff dates to the fall of 2001 and lasted at least through 2005: The first step was setting up accounts in Swiss and Liechtenstein banks that concealed Mr. Olenicoff's control of assets with taxable U.S. income. Once those assets had been tucked away, Mr. Olenicoff then was able to comfortably file U.S. tax returns that made no mention of his foreign accounts.

In October 2001, for example, Mr. Birkenfeld faxed account paperwork to Mr. Olenicoff that established a Bahamian corporation as the beneficial owner of the account instead of Mr. Olenicoff, according to the indictment. In 2003, Mr. Staggl emailed Mr. Olenicoff, copying in Mr. Birkenfeld, to inform the developer that lawyers in Gibraltar were ready to transfer ownership of Mr. Olenicoff's 147-foot yacht to a Gibraltar holding company.

Paul Rodriguez, The Orange County Register

Billionaire real-estate developer **Igor Olenicoff** is cooperating in a widening tax-evasion investigation.

On four years' tax returns, Mr. Olenicoff said he didn't have control of accounts in a foreign country, according to the indictment. According to court records from Mr. Olenicoff's December guilty plea, he controlled financial accounts through a series of firms in the United Kingdom, Switzerland, the Bahamas, and Liechtenstein.

Mr. Olenicoff's lawyer, Edward Robbins Jr. of Beverly Hills, Calif., confirmed Mr. Olenicoff is the person described in the indictment as "I.O." but otherwise said Mr. Olenicoff directed him to decline to comment Tuesday.

Mr. Olenicoff was raised in Iran by Russian émigré parents who moved to the U.S. in the 1950s. He later attended the University of Southern California and became a major player in Southern California real estate after starting his company, Olen Properties, in 1973. Forbes magazine's list of rich Americans ranked him in 2007 at 286, worth $1.7 billion.

Mr. Olenicoff's properties are mostly humdrum suburban office buildings and apartment complexes. But he added some flare in 2006 when Olen Properties spent $350 million for One South Dearborn, a new, 40-story glass skyscraper in Chicago. He has several development projects in the pipeline in Florida and Southern California, according to his company's Web site.

California real-estate executives describe Mr. Olenicoff as a private man who stays away from the Orange County social scene of benefits and country clubs. He also has a reputation as being sometimes difficult to deal with. "He doesn't get a lot of fruit baskets at Christmas time from people who did business with him in the past," says Charles Schreiber, founder of KBS Realty Advisors, a Newport Beach, Calif., real-estate investment firm.

On April 15, 2002, Mr. Olenicoff filed a false tax return that "fraudulently omitted income earned from offshore assets," the indictment alleges.

At one point in 2002, Mr. Olenicoff appeared to get cold feet about the security of the Liechtenstein accounts and asked to become a signatory to the accounts, according to the indictment. Mr. Staggl replied in an email telling Mr. Olenicoff not to put his name on the accounts because it would jeopardize the structure. According to the indictment, he allegedly filed fraudulent returns in 2002, 2003, 2004 and 2005.

In the summer of 2005, Messrs. Birkenfeld and Staggl told their client to move his assets from the Swiss account and to Liechtenstein. Their reasoning, according to the indictment: "because Liechtenstein had better bank secrecy than Switzerland."

The indictment doesn't name UBS and identifies only a Swiss bank. A person familiar with the matter said it was UBS. UBS recently disclosed that it was the subject of a U.S. investigation in a regulatory filing with the U.S. Securities and Exchange Commission. As part of the tax probe, high-ranking UBS private-bank executive Martin Liechti was detained.

In an emailed statement, UBS said it is continuing to cooperate with the Department of Justice investigation of its conduct in relation to cross-border services provided by Swiss-based UBS client advisers to U.S. clients. "In light of the pending investigation it is not appropriate to comment on charges brought against a former UBS employee," UBS said in its statement.

Exhibit E
to the
Reeves Declaration

UBS

UBS AG
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daniel.perron@ubs.com

www.ubs.com

November 4, 2002

Dear client

From our recent conversations we understand that you are concerned that UBS' stance on keeping its U.S. customers' information strictly confidential may have changed especially as a result of the acquisition of Paine Webber. We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised upon:

- The sharing of customer data with a UBS unit/affiliate located abroad without sufficient customer consent constitutes a violation of Swiss banking secrecy provisions and exposes the bank employee concerned to severe criminal sanctions. Further, we should like to underscore that a Swiss bank which runs afoul of Swiss privacy laws will face sanctions by its Swiss regulator, the Swiss Federal Banking Commission, which can amount up to the revocation of the bank's charter. Already against this background, it must be clear that information relative to your Swiss banking relationship is as safe as ever and that the possibility of putting pressure on our U.S. units does not change anything. Our bank has had offices in the United States as early as 1939 and has therefore been exposed to the risk of US authorities asserting jurisdiction over assets booked abroad since decades. Please note that our bank has a successful track record of challenging such attempts.

- As you are aware of, UBS (as all other major Swiss banks) has asked for and obtained the status of a Qualified Intermediary under U.S. tax laws. The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in US securities but under no circumstances will his/her identity be revealed. Consequently, UBS's entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities.

We look forward to working with you.

Sincerely,
UBS AG

Michel P. Guignard
Executive Director

Daniel H. Perron
Executive Director

A-47

Exhibit F
to the
Reeves Declaration

ELECTRONIC DATA SYSTEMS

service management center for Electronic Data Systems in Plano, Tex. Hewlett-Packard is iring E.D.S., but analysts say it will be difficult to double profit margins without layoffs

42 of 71 PAUL SAKUMA/ASSOCIATED PRESS

‹ V. Hurd, chief of Hewlett-Packard, cut costs, increased

ny's work force has grown, reaching about 172,000 in 2008.

H.P. might provide more details about its plans for E.D.S. when it reports second-quarter earnings next week.

In a preliminary report, H.P. said Tuesday that it earned 80 cents a share on revenue of $28.3 billion in the period ended April 30, compared with net income of 65 cents a share on revenue of $25.5 billion for the same quarter last year. That was slightly better than analysts had expected.

Christine Ferrusi Ross, an analyst with Forrester Research who covers the services industry, said that the E.D.S. deal was potentially less disruptive to Hewlett-Packard than the Compaq one because E.D.S. was going to retain much of its identity.

"There's a tendency to say that because this deal is so huge, it's a massive shake-up," she said. But she views the transaction as more about Mr. Hurd's imposing the discipline he brought to Hewlett-Packard on E.D.S.

Mr. Bracelin said that the E.D.S. deal provided a chance to see if Mr. Hurd could expand his

Ex-Banker From UBS Is Indicted In Tax Case

By LYNNLEY BROWNING

Some of the secrets of Switzerland's biggest bank were put on display on Tuesday as federal authorities indicted a former UBS banker on charges of helping a wealthy American real estate developer evade taxes.

The one-count conspiracy indictment, unsealed in federal court, accuses the former banker, Bradley Birkenfeld, of helping the developer evade taxes on $200 million held in bank accounts in Switzerland and Liechtenstein. The indictment also names as a co-conspirator Mario Staggl, an executive at a trust company in Liechtenstein, a major European tax haven.

An official briefed on the investigation identified the developer as Igor Olenicoff, the billionaire founder of Olen Properties. A lawyer for Mr. Olenicoff, Edward M. Robbins Jr., declined to comment, as did Mr. Olenicoff when contacted by e-mail.

The indictment is part of a widening federal investigation into whether UBS, one of the world's largest money managers for the wealthy, helped certain clients evade taxes, and it suggests that American authorities are stepping up scrutiny of offshore tax transactions. The inquiry focuses on UBS's private bank based in Zurich, which does much of its business through Liechtenstein.

Martin Liechti, a top private banker at UBS, recently was detained briefly by federal authorities in Florida as a material witness in the investigation.

Mr. Birkenfeld, 43, a citizen of the United States, was the director of important clients for UBS in Geneva from 2002 to 2006, and is a partner and chairman at Union Charter, which caters to wealthy investors through offices in Geneva, Dubai and Hong Kong. Mr. Staggl, also 43, is a cofounder of the New Haven Trust Company in Liechtenstein, which specializes in tax planning.

PAUL SAKUMA/ASSOCIATED PRESS

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ıtegrated several acquisitions.

stry. has the port cost ıdia. ıf its s. d be ıore she ıany would move or be cut, in part because the companies have not yet done detailed integration plans.

Mr. Hurd also declined to be specific about cost cuts. But "it is important to make our model work on the cost side," he said.

There is no question that Mr. Hurd has excelled at cost-cutting. Early in his tenure, H.P. laid off more than 15,000 employees, although more recently, the company's E.D.S. deal provided a chance to see if Mr. Hurd could expand his effectiveness beyond the hardware business.

"There is a little question mark on how well he's been able to drive improvement in the demand fundamentals for H.P.'s other products," Mr. Bracelin said.

In the long run, Mr. Bracelin predicted, Wall Street will embrace the E.D.S. deal. "Three years from now we'll look back and say this is the right acquisition," he said. "In the next 6 to 12 months, it's going to be sloppy."

elivery of Airbus A380s Again

LEON NEAL/AGENCE FRANCE-PRESSE — GETTY IMAGES

ıs A380, the production of which has been plagued by delays.

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will potentially have some impact, the details of which we will need to understand from Airbus."

Fabrice Brégier, chief operating officer at Airbus, told Reuters that Air France-KLM would be among those airlines whose A380s would be delayed. "All the dates are going to slip by around three months and notably for Air France-KLM," he said.

Singapore Airlines, with 19 A380s on order, has received 4 and is expecting the fifth by mid-June. "We will be discussing with Airbus how this will impact on our future deliveries," a spokesman for the carrier, Stephen Forshaw, said.

Lufthansa, with a delivery schedule that extends to 2015 for 15 planes, expects its first deliveries from March to October 2009.

"We are waiting for new airlines' opting to delay delivery of some planes into next year.

Tim Coombs, managing director of Aviation Economics, a consulting firm in London, said airlines might increasingly factor scheduling reliability into their buying considerations.

"They might wait until the aircraft's design, production and teething problems had been ironed out," Mr. Combs said. "There is an issue around not building in enough space in the timetable to iron out problems."

Mr. Brégier, the Airbus chief operating officer, said the A380 delay would not have any impact on the A350 passenger plane now under development. "The A350 and the A380 are not in competition for resources, since the A350 is in the early phases of design," he said.

Shares in **European Aeronautic**

Company in Liechtenstein, which specializes in tax planning.

Mr. Birkenfeld made an initial appearance on Tuesday in the United States District Court for the Southern District of Florida in Fort Lauderdale. Mr. Staggl, who is a citizen of Liechtenstein, remains at large and did not respond to e-mail messages.

According to the indictment, the two men created fictitious trusts and bogus corporations to conceal the ownership and control of offshore assets. They also advised clients to destroy bank records and helped them file false tax returns, the indictment said.

The two men and others made several trips to the United States to pitch tax plans that were intended to conceal American bank clients' ownership of accounts in a Swiss bank, the indictment said.

The plans enabled UBS to avoid its obligations to disclose certain income information to the I.R.S., the indictment said, while also evading certain American tax requirements. The cornerstone to the defendants' pitch was that Swiss and Liechtenstein bank secrecy was impenetrable, the indictment said.

UBS declined to comment on the charges.

In December, Mr. Olenicoff pleaded guilty to tax evasion and to lying on his tax returns, and agreed to pay back taxes totaling $52 million. Mr. Olenicoff, who was born in Russia and emigrated to the United States decades ago, is on the Forbes 400 list of wealthiest people, with an estimated net worth of $1.7 billion.

The developments come at a difficult time for UBS, which has been hit by hard by the credit crisis. The bank has suffered write-downs of about $38 billion since last summer, leading to the departure of a chief executive, a chairman and other senior managers.

Liz Claiborne Beats Wall St. Expectations

By Reuters

Liz Claiborne said Tuesday that higher-than-expected sales helped first-quarter operating profit zoom past Wall Street estimates.

Despite the strong results, Liz projected weakness in the second quarter because of a calendar shift, disappointing sales trends in its Mexx Europe business and discounting by American retailers.

Liz cut its full-year profit forecast, citing the weak economy.

Liz's first-quarter net sales

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WORLD

Hurdles abound in cross-border chase

Print

By Haig Simonian in Zurich
Published: May 15 2008 03:00 | Last updated: May 15 2008 03:00

Senior lawyers warned yesterday that US authorities could face serious impediments in mounting prosecutions after the indictment this week of two bankers based in Switzerland and Liechtenstein on alleged conspiracy to aid tax evasion.

The US Department of -Justice said on Tuesday that it had indicted Bradley Birkenfeld, a US citizen living in Switzerland, and Martin Staggl, a Liechtenstein national, on charges of aiding a US billionaire evade income tax on $200m held abroad.

The move came to the backdrop of mounting pressure from industrialised countries for a crackdown on tax evasion, including banks, trust companies and their employees, from traditional havens of client confidentiality such as Switzerland and Liechtenstein.

"This is not the end of the story," said Philip Marcovici, a partner and private banking specialist at Baker & McKenzie in Zurich.

The US indictments followed unconnected action this year by the authorities in Germany involving two Liechtenstein banks that -suffered the theft of client data.

Lawyers warned that high-profile arrests or investigations of prominent citizens, such as those undertaken in Germany, were a blunt way to tackle the problem of tax evasion and "legacy" assets abroad.

"There needs to be some sort of co-ordinated international approach", said Mr Marcovici.

The DoJ case is based on allegations that Mr Birkenfeld and Mr Staggl "conspired to defraud the United States by assisting a US citizen . . . in creating nominee entities, fictitious trusts, and bogus corporations" to conceal the ownership of offshore assets.

The case involves the US Qualified Intermediary agreement - an arrangement between banks and the US authorities allowing a degree of client confident-iality in return for the -provision of certain client information.

The US rules cover individuals but not companies, meaning that individuals could exploit the rules to channel assets to non-declarable companies created in tax havens.

To secure prosecutions, the US authorities would have to demonstrate that bankers or their employers deliberately encouraged clients to exploit such legal loopholes. Banks involved could have an additional line of defence in arguing, for example, that any wrong-doing was the work of "rogue" employees rather than company policy.

In the case of UBS, for example, the world's biggest wealth manager required Swiss-based executives covering wealthy US clients to sign a detailed document demonstrating they were aware of all legal constraints before crossing the Atlantic on business.

However, the US investigations are being helped by the co-operation of at least one of the three people involved.

The Financial Times has learned that Mr Birkenfeld is a former UBS private banker who turned whistleblower after an acrimonious parting with his employer in 2006.

Meanwhile, the unnamed US property developer involved in the case, identified as Igor Olenicoff, pleaded guilty in December to filing a false tax return and agreed to pay $52m in back taxes. He was sentenced to probation, 120 hours of community service and was fined $3,500.

Mr Birkenfeld, who appeared in court this week, was released on a $2.1m surety, along with electronic monitoring and unspecified other conditions.

The fact that Mr Birkenfeld, as a senior UBS client adviser, might typically have handled 50-100 big accounts,

suggests further investigations will follow in what is likely to be a widening investigation. The legal complexities suggest securing prosecutions might be another matter.

Additional reporting by Joanna Chung in New York

Taken to task

The latest register of specialist advisers for clients setting up trusts compiled by the Liechtenstein Financial Markets Authority runs to no less than 258 names in a country of just 34,000 people, **writes Haig Simonian in Zurich** .

New Haven Trust (or Treuhand in German), the company cited in the US DoJ indictment, is a small and recent addition. Established in 1995, its 14 staff include Mario Staggl, the Liechtenstein citizen named by the DoJ as a defendant alongside Mr Birkenfeld.

According to the UK-based Society of Trust and Estate Practitioners, New Haven's activities involve the classic trust tasks, as well as tax planning and estate and succession planning.

Mr Staggl, a partner in New Haven, said he had been surprised by the indictment. "I know no more than what I've read in the press," he said.

He declined to comment on the DoJ's allegations that he had since 2001 "devised, marketed and implemented tax evasion schemes for United States clients". He said he was in touch with his lawyers regarding the claims.

SPIEGEL ONLINE
05/20/2008 04:03 PM
TAX HAVENS

Europe, US Battle Swiss Bank Secrecy

By Beat Balzli and Frank Hornig

After fighting Switzerland's banking secrecy laws for decades, European finance ministers are about to receive support from the United States. Investigations into major Swiss bank UBS and a proposed law against tax havens are ratcheting up pressure against the system.

REUTERS

UBS headquarters in Zurich, Switzerland

Martin Liechti, a senior executive with the private banking division of major Swiss bank UBS, worked through his business appointments in New York with his usual efficiency. A subsequent trip to the Bahamas for a meeting in late April was also pure routine. In the Caribbean paradise, Liechti was scheduled to attend a supervisory board meeting of UBS (Bahamas) Ltd., and to take a closer look at the options for doing business with America's super-rich, including parking their money in Swiss trust accounts. But Liechti, a man known for his abrasive manner, never arrived in the Bahamas. US officials abruptly ended his trip when he was about to change planes in Miami. Since then, Liechti has been barred from leaving the country because the American authorities are investigating his employer for allegedly helping clients to evade taxes.

Liechti's former colleague Bradley Birkenfeld, as well as Mario Staggl, an executive with a trust company in Liechtenstein, are under indictment for allegedly helping American billionaire Igor Olenicoff evade taxes. According to the indictment, a fortune of about $200 million (€129 million) was sheltered from tax authorities "in secret bank accounts in Switzerland and Liechtenstein." Prosecutors allege that Staggl's attorney in Gibraltar even helped Olenicoff hide the details of his ownership of a "147-foot yacht."

The accused are alleged to have forged special forms that Swiss banks use to report their US customers' capital gains to the US tax authority, the Internal Revenue Service (IRS). Both Birkenfeld and Staggl have declined to comment on the charges.

"UBS is walking a thin line. On the one hand, it has to show a willingness to cooperate. On the other, it is trying to protect its customers' banking secrets," says Robert Heim, an attorney in New York and a former investigator with the US Securities and Exchange Commission.

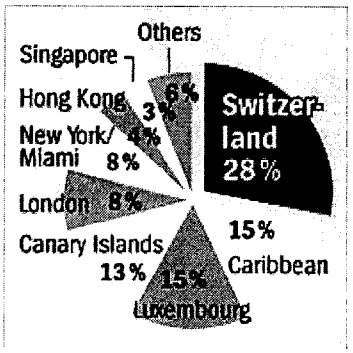
"The Justice Department will urge the two to cooperate," says Heim. "The more information they provide, the less severe their penalties will be." He expects that their testimony will soon lead to further indictments and arrests. "This is a very bad development for UBS," says Heim.

According to Heim, the United States is by no means the only place where Swiss high finance and the country's banking secrecy laws are coming under growing pressure. Foreign authorities around the globe are increasingly taking sharper action against tax evaders. Swiss financial institutions, often in tandem with partners in Liechtenstein, play a central role in helping the ultra-rich avoid paying billions in taxes.

An almost unimaginable fortune of more than €3 trillion ($4.7 trillion) is currently sitting in Swiss bank accounts. The discreet Swiss allow vast amounts of money to disappear into trusts, offshore companies and bank accounts, money that is often protected by Switzerland's banking secrecy laws.

"Criminal Support of Economic Crime"

Because of these laws, foreign officials on the hunt for untaxed riches are often forced to end their quests at the Swiss border -- to the anger and dismay of the world's finance ministers, and others. Rudolf Elmer, a controversial former executive with the private bank Julius Bär, condemned the dubious methods employed by Switzerland's financial institutions at a press conference in Berlin last week. He sharply attacked his native Switzerland, accusing it of engaging in "criminal support of economic crime."



DER SPIEGEL

Graphic: Money Hubs

Many politicians agree. The most recent challenge comes from French Finance Minister Eric Woerth, who plans to dry up the profit sources of Alpine "tax robbers," as he announced in a recent interview. The Frenchman has called for an initiative against tax havens and wants Switzerland to guarantee "maximum transparency and the exchange of information."

Woerth also plans to examine the black list of the Organization for Economic Cooperation and Development (OECD) because, as he claims, many countries have only been removed from the list thanks to "vague promises." Woerth says that he has already discussed the matter with German officials.

One man he can count on as an ally in his campaign against tax havens is German Finance Minister Peer Steinbrück. The Germans are especially fond of parking their untaxed assets in foreign tax shelters. According to a study based on data from DSTG, the German national tax collectors' union, and the Bundesbank, Germany's central bank, close to €500 billion ($775 billion) in untaxed German assets are in foreign tax shelters, with fully one-third of that amount on deposit in accounts in banks in Swiss cities like Geneva, Zürich and Lugano.

Former German Finance Minister Hans Eichel is a vocal critic of Switzerland's special status, and he is fond of appearing on Switzerland's prime-time television talk shows, where he sharply attacks Swiss banking secrecy. "A person who receives stolen goods is no better than a thief," he says.

Nevertheless, Eichel's comments are greeted with complete incomprehension. Despite the rallying cries of Eichel -- a member of Germany's center-left Social Democratic Party -- such as "tax evasion is committing theft against the people," the majority of Swiss continue to support banking secrecy.

One of the system's strongest advocates is a senior executive with Switzerland's oldest private bank. For Konrad Hummler, a partner in Wegelin & Co., German tax evasion is a legitimate defense by citizens attempting to "partially escape the current grasp of the administrators of a disastrous social welfare state and its fiscal policies."

"Swiss-style saving outside the system" is something to which not only the wealthy, but also productive small and mid-sized businesses are entitled. "These people must be protected," says Hummler.

Banking secrecy as an act of humanitarian compassion? More than anything, Switzerland's system of banking secrecy amounts to a very good business. It is considered the most controversial model of success in the history of global high finance. In past decades, the banking secrecy that is protected by law in Switzerland has acted like a magnet, drawing in trillions of euros and contributing to the meteoric rise of the small Alpine country's financial sector.

Switzerland's Largest Banks

by assets under management at the end of 2007, in billions of euros

UBS	1,927
Credit Suisse	940

Once insignificant boutique banks transformed themselves into banking industry giants. Despite suffering record losses as a result of the US subprime mortgage crisis, banks like UBS and Credit Suisse are still seen as top choices for portfolio managers. The entire industry makes up 15 percent of Switzerland's gross domestic product. "It makes us fat, but impotent," top banker Hans J. Bär complained a few years ago in his memoirs.

From small and mid-sized businesses to athletes to actors, everyone values the Swiss authorities' policy of refusing to respond to inquiries from foreign tax investigators. Those seeking a place to park untaxed income have

nothing to fear in Switzerland. Their account information is kept under lock and key because tax evasion is not considered a criminal offence in the country. Foreign governments can only expect assistance from the Swiss when it comes to tax fraud, such as when their tax authorities are deceived with falsified documents like bogus company accounts.

A recent incident at Credit Suisse illustrated how routine and matter-of-fact it is for Swiss banks to help their foreign clients avoid paying taxes. Because of embezzlement of customer money, one of the bank's customer advisors was summoned to appear in court in Zurich and divulge his employer's practices. At the bank's offices on downtown Zurich's posh Paradeplatz square, the defendant and his coworkers helped manage the assets of customers living in Germany, including a wealthy, elderly woman. According to the indictment, house visits with the client were as much a part of Credit Suisse's service as "tax optimization." The banker allegedly deposited the proceeds of real estate sales as cash into trust accounts, in an attempt to "make it impossible to trace the source of the funds," the prosecutor writes.

Naturally, the Zurich court refused to overrule the country's banking secrecy laws. The names and addresses of the injured parties were not divulged -- neither in the indictment nor in the courtroom.

A Wall of Silence

Switzerland's wall of silence has been in place for more than 70 years. In the Third Reich, both the Nazis and the persecuted Jews valued the small country's discreet services. After the war, Colombian drug dealers, African dictators and tax evaders from around the world pumped their ill-gotten billions into Swiss vaults. Former Philippine dictator Ferdinand Marcos, for example, had more than $600 million (€387 million) stashed away in Swiss bank accounts.

Money-laundering was not made a criminal offense in Switzerland until 1990. Before that, Swiss banking secrecy laws were even impregnable to foreign authorities pursuing members of the mafia.

In the meantime, however, it has become easier to crack the country's once hermetically sealed vaults.

A treaty with the European Union "to combat fraud" is expected to come into effect by the end of the year. When that happens, Switzerland will "also provide administrative and legal assistance in cases of tax evasion in the area of value-added tax," says Robert Waldburger, a professor of tax law and former deputy director of the Swiss Tax Administration. German tax investigators will then be able to contact their Swiss counterparts directly and discuss the necessary account information.

The new rules will be especially detrimental to small and mid-sized companies. Their private illicit earnings are often derived from undeclared company sales, for which they also failed to pay value-added tax.

The Demise of Swiss Banking Secrecy

Is Swiss banking secrecy headed for the history books? And are Steinbrück and other finance ministers fighting a paper tiger?

Almost, but not entirely. According to Waldburger, "the automatic exchange of information," in other words, the disclosure of account details, "would spell the real demise of Swiss banking secrecy." But the treaty on the taxation of interest between Switzerland and the EU still prevents this from happening.

After years of negotiations, the EU member states agreed that the Swiss could levy a source tax, a sort of withholding tax, which would increase over time, on the interest earnings of foreign customers, and turn over this source tax to the EU states without including customer data. However, the tax is easily circumvented with special financial products and letterbox companies, because it does not apply to legal persons.

But this is precisely what EU member states Austria, Luxembourg and Belgium are also doing. For this reason, a uniform EU directive to strengthen the interest taxation directive is not in sight. When finance ministers met in Brussels last Wednesday, Steinbrück encountered strong resistance to his demands. Austrian Finance Minister Wilhelm Molterer has said that banking secrecy is "not up for discussion."

In the United States, on the other hand, the Swiss banking industry could run into difficulties sooner. For years, the US Senate has been conducting its own detailed inquiries into the issue of tax evasion. Senators have summoned key representatives of the industry, including tax advisors, accountants, lawyers and

bankers, to the Capitol in Washington for lengthy hearings.

These hearings have produced reports, some of them hundreds of pages long, on the "tax shelter industry" and "its tools, methods of obfuscation and those pulling the strings." UBS was mentioned early in the Senate documents as an offender. With relish, the senators cited a letter written by an insider to UBS management. According to the letter, the bank offers "US taxpayers illegal tax evasion models," part of a system that costs American tax authorities "several hundred million dollars a year."

Of course, others -- the auditors at KPMG -- invented the system on which this is based. After admitting to charges of criminal tax fraud conspiracy, they only managed to avoid further criminal prosecution in the United States in 2005 by paying $456 million (€294 million) in fines and penalties.

By this point, the UBS executives should have known that they were likely to face significant problems in the United States. Many of the "tax optimizers" advised by KPMG had maintained accounts with the Swiss bank. The trail had been set. All the American officials had to do was to follow it.

Three US authorities are now conducting investigations against the Swiss portfolio managers: tax investigators from the US Justice Department, the Securities and Exchange Commission (SEC), headed by Christopher Cox, and New York Attorney General Michael Garcia. All are now hunting down the Swiss.

Political conflict is also on the horizon. An aggressive bill to combat tax evasion, the "Stop Tax Haven Abuse Act," was introduced in the US Congress last year. The legislation provides for tough measures against 34 tax havens, including Liechtenstein, Luxembourg and Switzerland.

The bill has stood little chance of becoming law until now. But that could quickly change after the presidential election in November. Once of the bill's three sponsors is Senator Barack Obama, who is currently favored to win the White House.

Translated from the German by Christopher Sultan

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http://www.spiegel.de/international/business/0,1518,554284,00.html

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New York Times (NY)

June 6, 2008

Section: C

Inquiry Into a Guarded World

LYNNLEY BROWNING

One afternoon in April, six dozen wealthy Americans were entertained at a luncheon party in Midtown Manhattan, along with a special guest from Paris: Henri Loyrette, the director of the Louvre.

The host of the exclusive gathering was the Swiss bank UBS, whose elite private bankers built a lucrative business in recent years by discreetly tending the fortunes of American millionaires and billionaires. As the wine flowed and Mr. Loyrette spoke of the glories of France, UBS bankers courted their affluent guests.

But now, as the federal authorities intensify an investigation into offshore bank accounts, the secrets of this rarefied world are being dragged into the open

-- and UBS's privileged clients are running scared.

Under pressure from the authorities, UBS is considering whether to divulge the names of up to 20,000 of its well-heeled American clients, according to people close to the inquiry, a step that would have once been unthinkable to Swiss bankers, whose traditions of secrecy date to the Middle Ages.

Federal investigators believe some of the clients may have used offshore accounts at UBS to hide as much as $20 billion in assets from the Internal Revenue Service. Doing so may have enabled these people to dodge at least $300 million in federal taxes on income from those assets, according to a government official connected with the investigation.

One prominent UBS client, a wealthy property developer in California named Igor Olenicoff, has already pleaded guilty to filing a false 2002 tax return. But as the investigation tears holes in the veil of secrecy surrounding tax havens like Switzerland and Liechtenstein, other names are surfacing, according to the authorities.

New revelations are likely to come Monday, when a former UBS banker is expected to testify in a court in Florida about how he helped Mr. Olenicoff and other clients evade taxes. The former banker, Bradley Birkenfeld, is set to plead guilty to helping Mr. Olenicoff conceal $200 million.

''He's going to sing like a parakeet,'' one of Mr. Birkenfeld's former clients said.

UBS said that it was cooperating with investigators and that it was against its policy to help Americans evade taxes. Officials at the bank declined to comment for this article.

Using offshore accounts is not illegal for United States taxpayers, but hiding income in so-called undeclared accounts is. At issue is whether the UBS clients filed W-9 tax forms with the I.R.S., disclosing securities and assets held offshore, as required by law. Switzerland does not consider tax evasion a crime, and using undeclared accounts is legal there.

The case could turn into an embarrassment for Marcel Rohner, the chief executive of UBS and the former head of its private bank, as well as for Phil Gramm, the former Republican senator from Texas who is now the vice chairman of UBS Securities, the Swiss bank's investment banking arm. It also comes at a difficult time for UBS, which is reeling from $37 billion in bad investments, many of them linked to risky American mortgages.

The federal investigation, which is part of a broad, international crackdown on tax cheats, suggests that United States authorities are shifting their focus to Liechtenstein and Switzerland from Caribbean havens like the Bahamas and the Cayman Islands. The Senate Permanent Subcommittee on Investigations is scheduled

to hold hearings as early as this month on offshore products sold by UBS and by the LGT Group, the bank owned by Liechtenstein's royal family.

At the center of the UBS investigation is Mr. Birkenfeld, 43, who grew up in the Boston area and went on to live what might seem like a charmed life as a private banker in Switzerland. Through his lawyer, Danny Onorato, Mr. Birkenfeld declined to comment.

Mr. Birkenfeld's testimony could deal a stinging blow to UBS, the world's largest money manager for people whom bankers politely call ''high net worth individuals.'' Since 2006, the bank has opened plush offices in New York and six other United States cities, among them Boston, Chicago and Houston, to cater to people who are worth at least $10 million.

Many UBS customers are worth far more than that. To lure them, UBS bankers canvassed cultural and sports events like Art Basel, the America's Cup and Boston Symphony Orchestra concerts.

''It's not a question of finding wealthy people; it's a question of how do you develop a network,'' said Purvez Siddiqi, who recruits private bankers like Mr. Birkenfeld for big banks. But Mr. Siddiqi said he was ''astonished'' by how aggressively UBS marketed its offshore accounts to Americans.

Mr. Birkenfeld took care of important clients for UBS's private bank catering to United States citizens with offshore accounts, and was central to UBS's effort to lure them.

Before joining UBS in 2001, he worked at Barclays Bank in Geneva, where brought in Mr. Olenicoff, the billionaire owner of Olen Properties. When Mr. Birkenfeld joined UBS, he brought Mr. Olenicoff along, and later helped him move hundreds of millions of dollars from the Bahamas to Switzerland, according to a financial executive briefed on the matter.

Shortly after Mr. Olenicoff left UBS for LGT, the Liechtenstein bank, in 2005, Mr. Birkenfeld resigned. The banker formally left UBS in March 2006.

Mr. Birkenfeld later claimed in a Swiss legal proceeding that UBS had not paid him a bonus he was owed. A former associate said Mr. Birkenfeld had become angry over what he considered the bank's wink-and-nod standard regarding tax evasion. UBS typically rewarded private bankers for attracting new clients in the United States, rather than for the fees the bankers generated for UBS from existing customers.

Mr. Birkenfeld also was angered when UBS asked bankers to sign papers saying that they, not the bank, would be responsible if they broke non-Swiss tax laws, according to a European financial executive briefed on the matter.

About a year ago, concerned by a tax investigation into Mr. Olenicoff, Mr.

Birkenfeld contacted the Justice Department and California authorities and offered to cooperate with prosecutors in the hope of securing immunity for himself, according to a person close to the case. His deal fell through, however, and Mr. Birkenfeld was charged, along with a financial executive from Liechtenstein, in an indictment unsealed May 13.

As the authorities focused on UBS last January, the bank abruptly shut its three Swiss offices that had sold undeclared offshore banking services to United States clients. Those offices catered to thousands of wealthy Americans, some of whom may now have their tax secrets put on public display.

An article on June 6 about federal inquiries into accounts held by Americans in the Swiss bank UBS and other foreign banks that maintain a high level of secrecy referred incorrectly to a tax form required of American clients of such banks. While the client must fill out a W-9 tax form, it is submitted to the bank, not to the Internal Revenue Service, and it discloses name, address and taxpayer identification number, not securities and assets held abroad.

---- INDEX REFERENCES ----

COMPANY: BARCLAYS PLC ; UBS AG ; UBS; INTERNAL REVENUE SERVICE (IRS); ROKEL COMMERCIAL BANK (SIERRE LEONE) LTD; LGT LIECHTENSTEIN GLOBAL TRUST; JUSTICE DEPARTMENT

NEWS SUBJECT: (Taxation (1TA10); Major Corporations (1MA93); Economics & Trade (1EC26))

INDUSTRY: (Retail Banking Services (1RE38); Private Banking (1PR83); Banking (1BA20); Financial Services Regulatory (1FI03); Accounting, Consulting & Legal Services (1AC73); Financial Services (1FI37))

REGION: (Central Europe (1CE50); Caribbean (1CA06); North America (1NO39); New York (1NE72); Bahamas (1BA90); USA (1US73); Americas (1AM92); New England (1NE37); Europe (1EU83); Texas (1TE14); Massachusetts (1MA15); Liechtenstein (1LI12); Western Europe (1WE41); Switzerland (1SW77); Latin America (1LA15))

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OTHER INDEXING: (BARCLAYS BANK; INTERNAL REVENUE; INTERNAL REVENUE SERVICE; JUSTICE DEPARTMENT; LGT; MARCEL ROHNER; OLEN PROPERTIES; SENATE PERMANENT SUBCOMMITTEE; UBS; UBS SECURITIES) (Birkenfeld; Bradley Birkenfeld; Danny Onorato; Igor Olenicoff; Loyrette; Olenicoff; Purvez Siddiqi; Siddiqi)

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UBS to Give Some Names in U.S. Tax Probe, SonntagsZeitung Says

By Carey Sargent

June 8 (Bloomberg) -- UBS AG plans to give some customers' names to the U.S. Justice Department to end an inquiry into whether it helped clients evade U.S. taxes, SonntagsZeitung said, citing a ``high-ranking employee'' it didn't identify by name.

UBS will only give names of customers when it doesn't contravene Swiss banking secrecy laws, the newspaper said, citing the U.S.-based employee. That would cover only ``a few'' clients, the employee told the newspaper. UBS said June 6 it is treating the case seriously. Dominique Gerster, a spokesman for the bank, declined to comment further today.

The New York Times reported June 6 that UBS is considering whether to disclose the names of 20,000 U.S. customers. U.S. authorities are investigating whether some clients may have used offshore accounts at UBS to hide as much as $20 billion in assets from the Internal Revenue Service and dodge at least $300 million in taxes, the New York Times said.

The number of clients and the sum of money is correct, although the allegation that most of the money is illicit is ``nonsense,'' an unidentified Zurich-based UBS employee told SonntagsZeitung.

Former UBS AG private banker Bradley Birkenfeld has agreed to plead guilty in a tax-evasion probe in federal court in Fort Lauderdale, Florida. Birkenfeld and Mario Staggl, a Liechtenstein banker, were indicted for helping wealthy Americans evade taxes by setting up sham corporations.

Birkenfeld, 43, has been cooperating in the probe of Zurich- based UBS for more than a year, U.S. prosecutors said at a hearing on May 13. Birkenfeld and Staggl marketed Swiss and Liechtenstein bank accounts to Americans who wanted to evade U.S. taxes, telling them that ``Swiss and Liechtenstein bank secrecy was impenetrable,'' according to the indictment.

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Tax Scandal's Mystery Man

Liechtenstein's Mario Staggl is accused of working with a former UBS banker to hide $200 million from the IRS. Now he's a fugitive

by David Henry, Matthew Goldstein and Jack Ewing

From all appearances it's business as usual for financial consultant Mario Staggl. The 43-year-old married father of two continues to report for work at a modest three-story building in his native Liechtenstein, the tiny principality of 35,000 between the Austrian and Swiss Alps. He answers calls and e-mails as before. When friends stop by his office, they're greeted by an affable assistant.

Half a world away, however, Staggl is in deep trouble. Last month he failed to appear in U.S. federal court in Fort Lauderdale to answer charges that he helped a billionaire hide $200 million from the IRS. After that, prosecutors branded him a fugitive. Staggl's partner in the alleged scheme, former UBS private banker Bradley Birkenfeld, was expected to plead guilty on June 19—and to implicate colleagues and wealthy U.S. clients. It would be another black eye for UBS, already battered by subprime—related losses.

Yet the Staggl scandal barely merits notice in Liechtenstein, which rivals Switzerland as one of the world's most prominent tax havens. Tax evasion isn't considered a major offense here, so Staggl may not be extradited; local newspaper editor Tino Quaderer call the charges "no big deal." So far Staggl doesn't seem inclined to fly to the States to dispute allegations that he set up secret accounts and offshore companies for Birkenfeld's client. Staggl declined to comment. "It's all too much," says Staggl's attorney, Andreas Schurti, declining *BusinessWeek*'s interview request.

A SAVVY OPERATOR, BUT DOUR

Despite Staggl's silence, a portrait of this mystery man emerges from court documents, regulatory filings, and company reports, as well as interviews with associates and authorities in the U.S. and Europe. It shows Staggl to be a savvy, if dour, operator for a roster of notorious clients, including an heir to Britain's Tesco grocery store fortune, a penny stock promoter, and an alleged smuggler of atomic bomb secrets.

For decades, some wealthy people have called on Liechtenstein bankers to hide their cash—honestly earned or ill—gotten—from the prying eyes of tax collectors and regulators. Some are uneasy about the perceptions. "The banking community in Liechtenstein stands for privacy and confidentiality," says Michael Lauber, director of the Liechtenstein Bankers Assn., "but not tolerance for financing terrorism, money laundering, organized crime, or corruption."

Staggl, who attended the Liechtenstein Trustee School in the early 1990s, has been on the banking scene since at least 1995. That year he and Klaus Biedermann, a former member of the Liechtenstein Banking Commission, co-founded a firm called New Haven Trust. Bypassing Vaduz, the principality's financial center, they set up shop in nearby Schaan, a town in a picturesque valley known for denture making.

Soon Staggl was helping a host of wealthy clients, some of them quite colorful. His services proved valuable to Dame Shirley Porter, an heir to the Tesco grocery fortune and a supporter of former Prime Minister Margaret Thatcher. During the late 1990s, Porter was fighting charges in Britain that she rigged elections by evicting low-income residents from public housing and replacing them with well-to-do Conservative Party voters. Facing penalties of more than 20 million pounds, the Porters moved the majority of their wealth to offshore accounts, according to British authorities. Staggl, a stocky man who favors expensive suits, acted as a director for at least one entity, Zollikon Investments, which was registered in the British Virgin Islands, another popular place to hide money.

COMING UP WITH THE CASH

In 2002, Porter wrote to her son, John R.C. Porter, explaining that she needed cash. Shortly thereafter Staggl authorized changes in a loan made by Zollikon to Telos, a U.S. defense contractor owned primarily by Porter's son. The deal allowed Telos to get a new loan and funnel nearly $3 million to the Porters, according to regulatory filings. John Porter didn't respond to requests for comment.

Around that time, Staggl was also working with Claude Greaves, a penny stock promoter and tax cheat convicted in an unrelated matter. New Haven was the Liechtenstein affiliate of ICM International, a consortium of tax consultants and offshore incorporators organized by Greaves, a native of Grenada. People familiar with the company say Greaves and his crew turned to Staggl when they needed to squirrel away proceeds from Grenada's defunct Salisbury Merchant Bank and three small British brokerages that sold dubious stocks. Court-appointed liquidators traced the money to three accounts Staggl set up at Liechtenstein's Neue Bank. British authorities investigated, but no charges were filed after Neue agreed to return the money. Neue declined to comment. "I've known Mr. Staggl a long time," says Greaves, who is awaiting trial in London for an unrelated alleged stock scam. "I don't believe what's written about him."

It wasn't the only time Staggl got mixed up in penny stocks. In 2006, he worked with Toronto financier Morrie Tobin to drum up investors for Calibre Energy and Standard Drilling, whose shares soared and crashed within 12 months. Working both sides of the Atlantic, the pair arranged meetings between bankers and prospective investors. Tobin says his "projects [with Staggl] are not related to the indictment."

Perhaps Staggl's most infamous client is Gotthard Lerch, a German engineer on trial in Stuttgart for allegedly supplying sensitive nuclear technology to Libya and the network of Abdul Qadeer Khan, considered by many to be the father of Pakistan's atomic bomb. Staggl managed money for Lerch—but gave up information to German investigators after two rounds of interrogation. In a June 1 article in the Swiss newspaper Neue Zürcher Zeitung, Staggl said he "never noticed anything suspicious" about Lerch's transactions and that they "didn't involve enormous sums." Even so, authorities have asked Staggl to testify in July. It isn't clear whether he'll comply, but the German court could offer Staggl immunity from extradition to the U.S. while traveling to and from Stuttgart to testify.

PATRIOT GAMES

Staggl has gotten creative in the wake of the Patriot Act and other laws that empower governments to probe bank accounts more aggressively. In 2002, for example, Staggl established a New Haven office in Denmark. Unlike Liechtenstein, Denmark doesn't have a reputation as a tax haven, giving the accounts an extra layer of respectability. "They were looking for a jurisdiction that was kosher," says a person familiar with Staggl.

Staggl showed some fancy financial footwork in moving money around for Igor Olenicoff, the Russian émigré and California developer at the center of the Florida indictment. As part of his services, Staggl used a shell company known as Landmark Settlement. The entity had a complicated—and therefore difficult to trace—parentage. Headquartered in Denmark, Landmark was owned by a company in the Bahamas but controlled by a Liechtenstein trust, according to incorporation records. Adding to a veneer of propriety, Landmark was audited by BDO ScanRevision, the Danish affiliate of accounting firm BDO International. Among Olenicoff's other repositories: an account at Neue, the same bank used by Greaves. Olenicoff pled guilty to tax evasion in December, agreeing to pay $52 million in back taxes and perform community service.

Now U.S. and European authorities are focusing more intensely on Liechtenstein. As part of a probe into tax cheats, the U.S. Senate's permanent subcommittee on investigations is focusing on Americans with accounts at LGT Group, a bank controlled by Liechtenstein's royal family. Earlier this year, German authorities arrested Deutsche Post Chief Executive Klaus Zumwinkel on tax evasion charges after an LGT insider sold secret records to spies enlisted by the German government. Zumwinkel denies the accusations. "LGT does not encourage or aid in tax evasion. It is in contact with the relevant authorities to cooperate," says an LGT spokesman.

With Staggl's fate unclear, a few of his associates are distancing themselves from him. When news of his indictment broke in May,

Principle Capital persuaded him to resign his directorships at a number of the European money manager's subsidiaries. Partners at New Haven's Denmark branch say he's no longer involved. BDO, meanwhile, says it quit auditing the Landmark vehicle Staggl set up for Olenicoff. At this rate, Staggl may soon find his bunker in Liechtenstein lonely.

Henry is a senior writer at BusinessWeek. Goldstein is an associate editor at BusinessWeek, covering hedge funds and finance. Ewing is BusinessWeek's European regional editor .

Exhibit G
to the
Reeves Declaration

UBS

Qualified Intermediary System: US withholding tax on dividends and interest income from US securities

1. Background

The USA levies a withholding tax of 30% on dividends and interest paid on US securities to foreign investors. Investors from countries with which the USA has concluded a double taxation agreement (DBA) can request full or partial relief from this tax. Relief of 15% is normally granted on *dividends*, which means investors are credited with a net 85% of the income.

By contrast, according to domestic US tax law, *interest payable* to foreign investors on the most common US (domestic) bonds issued after 1984 is already exempt from the withholding tax ("portfolio interest exemption rules"), subject to confirmation of the status and identity of the non-US investor. Relief from the withholding tax payable on interest income (usually 0%) as provided for in the DBAs is therefore only of secondary importance.

Interest income on those bonds issued by US borrowers that are most commonly traded on the Euromarket are already exempt from any withholding tax – provided that the bonds concerned are bearer securities – on the basis of the issuing process alone, i.e. without the need for any further proof and without any duty of disclosure.

2. Relief procedure since 2001 ("Qualified Intermediary System")

The Qualified Intermediary System, which came into effect in early 2001, allows foreign banks to obtain relief from withholding tax for their non-US clients (those not liable to US taxation) in accordance with the relevant DTA, directly and without having to file applications to reclaim the tax. Essentially, as long as its documentation on the clients concerned fulfils the accepted client identification rules, the foreign bank may credit these clients with interest and dividends as befits their tax status, having applied the correct withholding tax rate as defined in the relevant DTA, or having effected the relief in line with domestic US tax law. The simple address rule previously in force has been replaced by a "modified" address rule with additional documentation requirements. This makes it much easier than it was before for clients to buy US domestic interest-bearing paper (corporate bonds and government paper).

3. Implications for clients

It is, however, a necessary part of the procedure for the non-US bank concerned to acquire the status of 'Qualified Intermediary' (QI). UBS AG has this status and has entered into a contractual agreement with the US tax authority (the IRS) known as the "QI Agreement". It goes without saying that as well as the advantages associated with the continued or even extended ability to directly apply relief to US withholding tax, QI status also entails certain obligations.

3.1. Natural persons

Firstly, a QI has to ensure that *US Persons*, i.e. natural persons liable in full for taxes in the US (defined as US citizens and Greencard holders irrespective of their actual place of residence and persons resident in the USA for more than 183 days during the current year) either declare themselves to the US tax authorities (US form W-9, no deduction of withholding tax but reporting procedure 1099 must be followed) or are no longer permitted to invest in US securities.

In the case of persons who are *not* US persons as defined by US tax law, as long as statutory client identification procedures would appear to confirm entitlement pursuant to the DTA concluded with the USA, the QI can apply withholding tax relief on dividends and interest as conferred by the DTA, and/or directly apply the full relief to interest income as permitted by the US "portfolio interest exemption rules". In practice, most Swiss banks also seek internal confirmation of whether the client wishes to take advantage of the DTA relief before applying it. For persons resident in countries which do not have a DTA with the USA, the full withholding tax of 30% must still be deducted

from dividend payments. However, such investors do benefit from full relief on "portfolio interest exempt" earnings.
The main advantage of the QI system and the effect intended by the USA, is to enable investments to receive correct withholding tax treatment in the USA without the need to disclose any information on foreign investors to the US custodian bank, the US tax authorities or any other tax authority.
The client's current tax status is documented by the normal client identification procedures and also by means of the internal forms used by UBS AG.

3.2. Legal entities

The above rules also apply to bank clients that are legal entities.

Legal entities which are domiciled in the USA or which are incorporated in the USA qualify as US persons. These entities are not subject to the same restrictions and reporting procedures that apply to natural persons, but in order to avoid misunderstandings, the QI is also entitled to ask these persons to submit US form W-9.

Foreign legal entities that are not US persons, such as Swiss incorporated companies, GmbH's (companies with limited liability), cooperatives, foundations, associations autonomous public sector bodies and similar foreign legal forms benefit in the same way as natural persons from full relief on earnings from qualifying bonds pursuant to the "portfolio interest exemption rules"; they also benefit from a reduced withholding rate on dividends and interest income, provided that they are covered by a DTA concluded with the USA. As with natural persons, the general condition here is of course that the investor concerned is the beneficial owner of the earnings in question.

For legal entities, the QI Agreement additionally requires that before any relief under a DTA can be applied, the legal entity must expressly confirm to the QI that it fulfils the conditions for DTA entitlement pursuant to the applicable provisions in respect of the "Limitation on Benefits" (no such express confirmation is required for natural persons). These highly complex provisions are included in all the more recent DTA's concluded with the USA, including those concluded with the Netherlands, Germany, France and, nota bene, Switzerland. The DTA's in question, the withholding tax rates and the relevant "Limitation on Benefits" clauses can be called up via a link on the homepage of the Swiss Bankers Association (www.swissbanking.org).

In order to ensure compliance with the clauses of the QI Agreement, the affirmation of non-US person status obtained by UBS AG from the legal entity by way of an internal form includes express confirmation by the legal entity that it has taken note of the provisions of the "Limitation on Benefits" and that it fulfils the conditions for recourse to the DTA. In cases of uncertainty or where there are outstanding questions in respect of these conditions, we recommend consulting a professional tax advisor.

If there is no express confirmation that the "Limitation on Benefits" clauses have been fulfilled, the QI regulations dictate that UBS AG cannot apply the relief from withholding tax on dividends under a DTA, even if the legal entity is domiciled in a country that has a DTA with the USA. Instead, dividends (and DTA interest income) are taxed at the full US withholding rate of 30%. Of course the same applies if there is no DTA between the country of domicile and the USA.

This does not affect the grant of full relief in respect of interest income from qualifying (US domestic) bonds under the "portfolio interest exemption rules", which does not depend on the existence of a DTA or the fulfilment of any DTA criteria.

3.3. Special conditions for persons resident /domiciled in Switzerland (additional tax deduction USA)

Because the Swiss federal authorities have decided that the "additional tax deduction USA" will continue to apply to persons domiciled or resident in Switzerland, the QI must continue to levy a tax payment totaling 30% in respect of dividends, on all natural persons and legal entities resident or domiciled in Switzerland (i.e. the original 15% withholding tax due in the USA plus the 15% "additional tax deduction USA" in Switzerland). Taxpayers may continue to claim back the

"additional tax deduction USA" from the relevant Swiss tax authority as part of the normal tax declaration process. It may be possible under the DTA to claim a flat-rate tax credit in Switzerland for the non-reclaimable original 15% withholding tax due in the USA.

If the Swiss legal entity does not supply the confirmation as detailed under 3.2 that it fulfils the conditions set out in the "Limitation on Benefits" clause, the full original US withholding tax deduction of 30% applies. The "additional tax deduction USA" does not apply in such a case and essentially there is no possibility of reclaiming the tax in Switzerland. The full deduction should be seen as a definitive charge.

According to the decision taken by the Swiss federal authorities, the organizational forms that are exempt from tax pursuant to Art. 56 of Switzerland's law on direct federal taxes are treated as special cases. The "additional tax deduction USA" does not apply to these organizational forms, i.e. they are only taxed at the original US withholding rate of 15%. In order to qualify for this special treatment, however, the required form must be submitted to UBS AG in good time.

The comments on the "additional tax deduction USA" do not apply to interest earnings that benefit from full tax relief under the US "portfolio interest exemption rules".

3.4. Not applicable to organizational forms that are not legal entities

The above comments apply exclusively to companies and organizations that qualify as legal entities under national law. They do not apply to companies or organizational forms that have no legal personality, such as unincorporated firms (collective companies, limited partnerships, limited partnership corporations, general partnerships, unlimited companies, etc.). These are subject to other regulations and, under US tax law, some of them may qualify as transparent intermediaries with a possible duty of disclosure. They also have to be treated differently in the matter of recourse to DTA benefits.

3.5. Special investment vehicles (domiciliary companies such as offshore companies, foundations, trusts, etc.)

(Non-US) organizational forms used as investment vehicles that could be classed as domiciliary companies as defined in the Swiss code of due diligence are subject to a special regulation. Such organizations will either be an offshore company or one of the wide range of foundations and trusts that are used in asset management business. While the main issue concerning domiciliary companies is whether they really are companies and also whether they really are the beneficial owner of the assets as defined by US tax law (facts which can be confirmed using the appropriate forms), the basic problem with trusts and foundations is that US tax law tends to regard them as transparent intermediaries with corresponding disclosure obligations.
Whereas there was originally a solution to this, whereby foreign investors could avoid having to disclose information for the sake of it, changes introduced in the relevant US regulations in fall 2003 largely made the continuation of this solution unworkable. Given this change in circumstances, if there is no desire to disclose the identities of either the bank's contracting partner or the beneficial owner to the US tax authorities, the possible alternatives are for US securities to be excluded from the portfolio, for the beneficial owner to hold them directly, or for a structure to be put in place between the foundation/trust and the bank which itself serves as an independent, non-transparent beneficial owner (e.g. a legal entity/corporation/company) and submits documentation to the QI to this effect.

4. Relevant US securities

The new regulations apply to securities issued by US companies and borrowers. In general terms, the securities involved are equities (of whatever form) of US companies traded on US or foreign stock markets or bonds (straights, zeros, etc.) from US issuers (companies, local authorities, government agencies, etc.) destined for the US domestic market. The equity certificates issued by these companies for trading outside the USA (depositary receipts, Swiss certificates, etc.) are subject to the QI regulations in the same way as are the underlying securities. Clearly, units in US

investment funds (regulated investment companies, mutual funds, etc.) also qualify as US securities, although units in foreign (non-US) investment funds do not, even if the funds themselves invest in US paper.

Different rules apply to Eurobonds that are issued by US borrowers specifically for foreign markets and/or foreign investors, provided that these qualify as bearer paper under the "portfolio interest exemption rules". Such bonds are not affected by the changes and are exempt from the QI procedure. However they are already subject to certain sales restrictions, at least in the primary market, that prevent or make difficult any sale to US persons.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

IN THE MATTER OF THE TAX
LIABILITIES OF:

JOHN DOES, United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2007, had signature or other authority (including authority to withdraw funds; to make investment decisions; to receive account statements, trade confirmations, or other account information; or to receive advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through any office in Switzerland of UBS AG or its subsidiaries or affiliates and for whom UBS AG or its subsidiaries or affiliates (1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all reportable payments made to such United States taxpayers.

DECLARATION OF BARRY B. SHOTT

I, Barry B. Shott, pursuant to 28 U.S.C. Section 1746, declare and state:

1. I am the duly commissioned Deputy Commissioner (International) with the Large & MidSize Business Division of the Internal Revenue Service. I am employed in the office of the Commissioner, Large & MidSize Business Division, and I am the United States Competent Authority. As the Competent Authority, I oversee the international exchange of information pursuant to tax treaties between the United States and foreign countries. Prior to my appointment as the Deputy Commissioner (International) I was a Director of Field Operations, and then Industry Director for the Financial Services Industry in the Large & MidSize Business Division.

While with the Financial Services Industry, I was directly responsible for oversight of the Qualified Intermediary Program.

The Qualified Intermediary Program

2. The United States Government issued regulations, effective in 2001, confirming that the IRS would require that thirty (30) percent be withheld on income earned with respect to United States investments maintained in foreign financial accounts unless the foreign banks gave U.S. withholding agents documentation obtained from the beneficial owners of the accounts.

3. In order to simplify the documentation procedure, the IRS created the Qualified Intermediary Program ("Q.I. Program"). Foreign banks that agreed to follow certain procedures could assume the responsibilities of a U.S. withholding agent (including determining which customers qualified for treaty benefits, such as reduced or eliminated withholdings, based on documents establishing the identity of the account's beneficial owner) without disclosing to U.S. authorities the identities of these non-United States taxpayers. This was a valuable benefit to foreign banks in maintaining their business with respect to the holdings of United States investments by non-United States taxpayers.

4. In order for the Q.I. Program to function as intended, the foreign banks must correctly and truthfully ascertain the identity and citizenship/residence of its clients. Thus, the Q.I. Program requires foreign banks to obtain and maintain IRS Forms W-8BEN, which report the identities of non-United States account holders, or IRS Forms W-9, which report the identities of United States account holders. Model copies of Forms W-8BEN and W-9 are attached as Exhibits A and B, respectively. In addition, the Q.I. Program requires foreign banks to confirm client identities with greater scrutiny than in the past. Specifically, foreign banks

must examine formal identification, citizenship and residency documentation. Clients claiming non-United States residence/citizenship are obligated to document their status, especially where bankers have contact with the client in the United States, such as meetings in person and contacts via telephone, mail, e-mail and fax.

5. Pursuant to the Q.I. Program, foreign banks maintaining accounts for United States clients are required to prepare and transmit to the IRS, Forms 1099 reporting payments on United States investments. Generally, the Form 1099 reporting cover interest, dividends and sales proceeds on United States investments. The Form 1099 is issued by the bank to the United States taxpayer and the information contained therein is provided to the IRS.

6. Where a United States taxpayer refuses to submit the proper documentation, a foreign bank that is party to a Q.I. Agreement must backup withhold at twenty-eight (28) percent on all U.S. source income, just like a U.S. bank. If a foreign bank that is party to a Q.I. Agreement (1) knows that an account holder is a United States taxpayer who should be providing documentation, and (2) the foreign bank is prohibited by law (including by contract) from disclosing the account holder, then the foreign bank must request from the account holder the authority either to disclose his identity or to exclude U.S. securities from his account. If the foreign bank does not receive authority to disclose the owner's identity or to exclude U.S. securities in 60 days, it must sell the U.S. securities in the account.

7. If clients claiming non-United States residence/citizenship do not document their status, the foreign bank is required to apply various presumptions, all of which would result in withholding on U.S. source payments.

8. UBS entered into a Q.I. Agreement with the IRS in 2001.

Access to Swiss Bank Records Through Treaty Requests

9. One of my current responsibilities is exchanges of information under tax conventions, including the Convention between the United States and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income (the "Swiss treaty"). Article 26 of the Swiss treaty, which was signed at Washington on October 2, 1996, provides for the exchange of information as is necessary "for the prevention of tax fraud or the like."

10. In our experience, Article 26 has been applied consistently by the Swiss Competent Authority, since the inception of the treaty, to provide the Internal Revenue Service assistance only in response to specific requests that name a particular taxpayer. It has also been our experience that the Service must have an existing examination or investigation concerning a specific taxpayer and it must make detailed factual allegations regarding conduct constituting tax fraud by the taxpayer in accordance with the Mutual Agreement of January 23, 2003, between the Competent Authorities of the Swiss Federation and the United States, regarding Article 26.

11. Recently, representatives of the Swiss government indicated a willingness to consider a request under the treaty that did not specifically identify the taxpayers whose records were sought. Even if such a request is made pursuant to the Swiss treaty, the account holders whose information is the subject of the request would be notified by the Swiss government and granted the right to object to the production of their records. If the account holder objects to the production of the records, a Swiss court would determine if the records could be produced under the treaty. The Swiss court would approve the production of records only if it found evidence of tax fraud.

12. The United States also has a Mutual Legal Assistance Treaty (MLAT) with Switzerland, which entered into force January 23, 1977. The MLAT also provides a mechanism for the exchange of information, but applies only to criminal investigations. Because the investigation in which the UBS John Doe summons will be issued is civil in nature, the MLAT does not provide a means for securing the information sought in the summons.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct.

Executed this 24 day of June 2008.

BARRY B. SHOTT
Deputy Commissioner,
Internal Revenue Service

Exhibit A
to the
Shott Declaration

Form **W-8BEN**
(Rev. February 2006)
Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ **Section references are to the Internal Revenue Code.** ▶ **See separate instructions.**
▶ **Give this form to the withholding agent or payer. Do not send to the IRS.**

OMB No. 1545-1621

Do not use this form for: **Instead, use Form:**

- A U.S. citizen or other U.S. person, including a resident alien individual W-9
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) . . . . . W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) . . . . . W-8ECI or W-8EXP

Note: *These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.*

- A person acting as an intermediary W-8IMY

Note: *See instructions for additional exceptions.*

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization

3 Type of beneficial owner: ☐ Individual ☐ Corporation ☐ Disregarded entity ☐ Partnership ☐ Simple trust ☐ Grantor trust ☐ Complex trust ☐ Estate ☐ Government ☐ International organization ☐ Central bank of issue ☐ Tax-exempt organization ☐ Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number, if required (see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Claim of Tax Treaty Benefits (if applicable)

9 **I certify that (check all that apply):**

a ☐ The beneficial owner is a resident of ..... within the meaning of the income tax treaty between the United States and that country.

b ☐ If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).

c ☐ The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).

d ☐ The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).

e ☐ The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, $500,000.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article ..... of the treaty identified on line 9a above to claim a ..... % rate of withholding on (specify type of income): ..... .

Explain the reasons the beneficial owner meets the terms of the treaty article: .....

.....

Part III Notional Principal Contracts

11 ☐ I have provided or will provide a statement that identifies those notional principal contracts from which the income is **not** effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,

2 The beneficial owner is not a U.S. person,

3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, **and**

4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶ ..... Signature of beneficial owner (or individual authorized to sign for beneficial owner) ..... Date (MM-DD-YYYY) ..... Capacity in which acting

Exhibit B
to the
Shott Declaration

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....
☐ Other (see instructions) ▶

☐ Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here | **Signature of U.S. person ▶** | **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,