

United States Attorney's Office
Southern District of New York

Offshore Tax Evasion Initiative



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Prosecutions of Account-Holders

SDNY Prosecutions of Account-Holders

- About **13 individuals** prosecuted (of total 70+)
- **Banks:** UBS, Credit Suisse, Wegelin, others
- **Charges:** **conspiracy, tax evasion, false tax returns, failure to file FBARs**
- Extensive use of **Liechtenstein foundations, Hong Kong/Panamanian/BVI/Cayman Islands corporations**
- **Some prison sentences:** 12 months (2), 6 months
- **Some home confinement:** 8 months; 3 months; 100's of hours of community service
- **Substantial FBAR penalty:** 50% of high balance

Sources of Information about U.S. Taxpayers

Beda Singenberger

- Swiss **financial advisor** indicted in 2011
- Extensive use of **Liechtenstein foundations, Hong Kong/Panama/BVI corporations**
- Helped **move accounts from UBS** to other Swiss banks
- **Inadvertently provided list of client names, banks, and meeting dates; found its way to IRS**
- **Jacques Wajsfelner**: 3 months' home confinement; \$2.8 million civil penalty; \$400K taxes; \$20K fine
- **Michael Canale**: 6 months' imprisonment; \$394K civil penalty; \$216K taxes; \$100K fine

Wegelin & Co.

- Oldest Swiss bank – founded **1741**
- **True partnership** – 8 managing partners at time of indictment
- Never had branches outside of Switzerland
- Held **correspondent bank account at UBS in U.S.** – used to repatriate undeclared funds
- As of December 2010, **\$25 billion of AUM**
- **\$1.5 billion of undeclared AUM** for U.S. taxpayers in about **700 accounts**

Jurisdiction over Entity With No Branches in the United States

Use of U.S. Jurisdictional Means

- E-mail; telephone calls; faxes; U.S. correspondent bank account; some U.S. travel
- Plus . . . **avoidance** of U.S. jurisdictional means – stronger evidence of willfulness
- Wegelin client advisor instructed client **not to call or send faxes to U.S.**
- Wegelin did not send mail to U.S. – clients executed **“hold mail” agreements**
- Management instructed client advisors **not to communicate** with U.S. clients via telephone and e-mail

Much More Than Just Numbered Accounts

Strong Evidence of Willful Conduct

- **Numbered accounts; code names** for accounts
- **Took in clients leaving UBS** following disclosure of investigation of UBS and after UBS deferred prosecution agreement in early 2009
- UBS was aware of this and **client advisors at UBS referred clients** who had to leave UBS to Wegelin
- Wegelin executive: Wegelin was **not exposed to the risk of prosecution** that UBS faced in the U.S.
- Wegelin executive: Wegelin could **charge high fees** to new U.S. clients because **clients were afraid of criminal prosecution** in the U.S.

More Examples of Willfulness

- **Sales pitch based on secrecy:** stressed that undeclared accounts would not be disclosed to U.S. authorities plus Wegelin's **long tradition of bank secrecy** and, unlike UBS, **no offices outside Switzerland**
- **Management participated** in these meetings
- Created a procedure to **accommodate UBS walk-in clients**
- Open accounts for U.S. clients who had **two passports** by using the non-U.S. passport
- **Advised client to not participate** in IRS voluntary disclosure program

Significance of Illegal Conduct for Wegelin

- **Growth in Undeclared AUM:** \$88 million in 2002 → \$214 million in 2005 → \$1.5 billion in 2009
- **Growth in Undeclared AUM as % of Total AUM:** 2.3% in 2002 → 2.5% in 2005 → 7% in 2009
- **Growth in Undeclared Accounts:** 89 in 2002 → 195 in 2005 → 684 in 2009
- **Growth in Fees Derived Undeclared Accounts:** \$479K in 2002 → \$769K in 2005 → \$4.6MM in 2009

Wegelin's Guilty Plea

“Despite being aware of [U.S. taxpayers’] legal duty [to report all income to the IRS and to pay tax on all income], Wegelin **intentionally opened and maintained non W-9 accounts** for these taxpayers with the knowledge that, by doing so, Wegelin was **assisting these taxpayers in violating their legal duties**. Wegelin was **aware that this conduct was wrong.**”

Wegelin's Guilty Plea

“However, Wegelin believed that, as a practical matter, it would not be prosecuted in the United States for this conduct because it had no branches or offices in the United States and because of its understanding that it acted in accordance with, and not in violation of, Swiss law and that such conduct was common in the Swiss banking industry.”

Wegelin's U.S. Correspondent Bank Account

- Held at UBS in Connecticut
- Helped some U.S. taxpayer-clients **repatriate undeclared funds** to the United States – checks and wires
- Helped two other Swiss banks repatriate undeclared funds to their U.S. clients – **nested correspondent bank relationship**
- **Forfeiture of \$16.2 million** – uncontested
- Movement of undeclared funds at the same time as legitimate transactions made undeclared funds more **difficult to detect** and lent **air of legitimacy** to movement of undeclared funds

Structuring of Checks

Check No.	Approximate Date of Issue	Approximate Date of Negotiation	Approximate Amount
3416	11/25/2008	1/7/2009	\$8,500
3417	11/25/2008	12/24/2008	\$8,500
3418	11/25/2008	12/11/2008	\$8,500
3468	1/5/2009	1/30/2009	\$8,500
3469	1/5/2009	2/12/2009	\$8,500
3470	1/5/2009	3/5/2009	\$8,500
3510	2/26/2009	3/10/2009	\$8,500
3511	2/26/2009	4/21/2009	\$8,500
3512	2/26/2009	4/6/2009	\$8,500
3552	4/21/2009	5/8/2009	\$8,500
3553	4/21/2009	5/20/2009	\$8,500
3554	4/21/2009	6/16/2009	\$8,500
3659	8/25/2009	10/26/2009	\$8,500
3660	8/25/2009	3/4/2010	\$8,500
Total:			\$119,000

Wegelin's Sentence

- **Forfeiture** of all fees earned from illegal business – **\$15.8 million**
- **Restitution** of estimated taxes evaded – **\$20 million**
- **Penalty** – **\$22.05 million**
- Forfeiture from **U.S. correspondent bank account** – **\$16.2 million**
- **Total** – **\$74.05 million**

Gatekeepers – Bankers, Financial Advisors, and Lawyers

Edgar Paltzer and Stefan Buck

- Buck: **Head of private banking** at Swiss bank (identified self as Bank Frey)
- Paltzer: **Lawyer at Swiss law firm** (identified self as NKF); U.S. trained; specialized in private client work
- 9/30/12: **\$2.12 billion AUM**
- **\$938 million for U.S. taxpayers domiciled in U.S. (44%)**
- Used U.S. **correspondent bank account of Wegelin**
- 2/2009 (UBS deferred prosecution) to 2/2012 (indictment of Wegelin): **300% increase in U.S. clients**

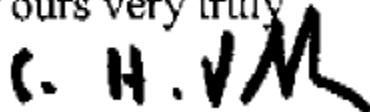
Paltzer

- Helped clients who were **getting forced out of other Swiss banks** open new accounts; **repatriate money**
- **Sham foundations, corporations** as account-holders; false IRS forms (W-8BENs); **off-the-shelf** entities
- **Sent checks** in amounts **designed to evade detection**; withdrawals of **large amounts of cash**
- **But refused to send checks greater than \$10,000**
- Use of **code words** (“rental income” to refer to balance)

Examples

Please be kind enough to arrange for a cash payment/withdrawal of Euro 300'000 (Euro threehundred thousand) to be delivered to our mailing address.

Yours very truly



Edgar H. Paltzer, director

From: Paltzer Edgar H. <edgar.h.paltzer@nkf.ch>
Sent: Wednesday, September 10, 2008 10:51 AM
To: [REDACTED]
Subject: AW: hello

Dear Mrs. [REDACTED]

You should have received five postcards, including one for [REDACTED], not just four.

I am in the process of reconstructing what happened to the fifth postcard and, if necessary, check if we can get it cancelled. I will get back to you.

With kind greetings
Edgar H. Paltzer

Buck Example - Feb. 2010 E-mail from Client to Buck

Requests for Stefan:

Please send in batches of three, USD cheques made in favor of [entity controlled by taxpayers] . . . as follows:

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

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

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

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

....

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

Buck Example No. 2 - August 2011

E-mail from Client to Buck

I hope this finds you well and having a good summer. We are OK, but there is some sad news. Apparently, the funds sent to the U.S. from [Swiss Bank No. 1] were sent through another Swiss bank that is presently the target of an investigation by the United States District Court in New York. We are in receipt of a subpoena demanding our testimony and documents in relation to this affair.

Repatriating Hidden Money to U.S.

Josef Beck

- Swiss financial advisor
- Helped **open and manage undeclared accounts** for U.S. taxpayers at UBS, Wegelin, and other banks
- Helped U.S. clients with undeclared accounts **deposit and withdraw cash**
- Received cash from one U.S. client – for **transfer** to other U.S. clients
- Have “**something**” for you – **street corner money drops**
- Used a **child** to transfer cash
- Charged with conspiracy to commit **tax evasion** and operating **unlicensed money transmission business**

Questions?



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