

UNITED STATES DISTRICT COURT

for the Southern District of Florida

United States of America )
v. )
STEVEN MICHAEL RUBINSTEIN )
)

Case No. 09-6116-BSS

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 04/09/2008 in the county of BROWARD in the SOUTHERN District of FLORIDA, the defendant violated 26 U. S. C. § 7206(1), an offense described as follows:

willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; to wit: a tax year 2007 United States individual tax return (Form 1040) and related attachments and schedules that failed to report that the defendant had an interest in or a signature authority over a financial account at UBS in Switzerland and failed to report income earned on his UBS Swiss bank account.

This criminal complaint is based on these facts:

See attachment.

[X] Continued on the attached sheet.

Complainant's signature (handwritten)
IRS Special Agent Scott Johnson
Printed name and title

Sworn to before me and signed in my presence.

Date: 04/01/2009

Judge's signature (handwritten)
Hon. Barry S. Seltzer, U.S. Magistrate Judge
Printed name and title

City and state: FORT LAUDERDALE, FLORIDA

AFFIDAVIT

I, SCOTT JOHNSON, being duly sworn, depose and say:

1. I am a Special Agent with the Internal Revenue Service, Criminal Investigation ("IRS"). I have been employed with the IRS since approximately 2001. I am currently assigned to a group that investigates tax fraud, including, among other crimes, filing false tax returns in violation of Title 26, United States Code, Section 7206. I have also participated in investigations that focus on the use of foreign bank accounts by United States taxpayers who willfully conceal assets and income from the IRS.

2. The information in this affidavit is based on my personal knowledge, information provided to me by others, including other law enforcement officials and civilian witnesses, as well as my review of documents associated with the case. I am fully aware of the facts and circumstances concerning this investigation and have participated in significant aspects of this investigation.

3. The information contained in this affidavit is submitted for the sole purpose of demonstrating probable cause to obtain a criminal complaint against STEVEN MICHAEL RUBINSTEIN, for violations of Title 26, United States Code, Section 7206(1), willfully filing a false and fraudulent United States Individual Tax Return, Form 1040, and accompanying attachments and schedules for tax year 2007. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not contain all of the information known to me and/or other law enforcement officers involved in this case.

4. STEVEN MICHAEL RUBINSTEIN is a chartered accountant. Since at least 1994, STEVEN MICHAEL RUBINSTEIN has worked for an international company that assists

clients to build, buy, and sell yachts. Since at least 2001, STEVEN MICHAEL RUBINSTEIN'S business operations have been based in Coral Springs, Florida, in Broward County within the Southern District of Florida.

**OBLIGATION TO REPORT WORLDWIDE INCOME AND FOREIGN BANK ACCOUNTS**

5. United States citizens who have income in excess of a certain amount are obligated to file a federal income tax return each year. On said return, United States citizens are obligated to report their worldwide income. Additionally, United States citizens who have an interest in or a signature or other authority over a financial account in a foreign country with assets in excess of \$10,000 are required to disclose the existence of such account on Schedule B, Part III of their individual income tax return.

**INVESTIGATIVE BACKGROUND**

6. On February 18, 2009, as part of a deferred prosecution agreement (the "Agreement") entered into with the United States government, UBS AG ("UBS"), Switzerland's largest bank, admitted that it conspired with certain United States taxpayers to defraud the United States and its agency, the IRS. The factual admissions by UBS are the basis for the information contained in paragraphs 7 through 10 of this affidavit.

7. As admitted to by UBS, beginning in 2000 and continuing until 2007, UBS, through certain private bankers and managers in the United States cross-border business, participated in a scheme to defraud the United States and its agency, the IRS, by actively assisting or otherwise facilitating a number of United States individual taxpayers in establishing accounts at UBS in a manner designed to conceal the United States taxpayers' ownership or

beneficial interest in said accounts. In this regard, said private bankers and managers facilitated the creation of such accounts in the names of offshore companies, allowing such United States taxpayers to evade reporting requirements and to trade in securities as well as other financial transactions.

8. In connection with the establishment of such offshore company accounts, UBS private bankers and managers accepted and included in UBS's account records IRS Forms W8-BEN (or UBS's substitute forms) provided by the directors of the offshore companies which represented, under the penalties of perjury, that such companies were the beneficial owners, for United States income tax purposes, of the assets in the UBS accounts. In certain cases, the IRS Forms W8-BEN (or UBS's substitute forms) were false or misleading in that the United States taxpayer who owned the offshore company actually directed and controlled the management and disposition of the assets in the company accounts and/or otherwise functioned as the beneficial owner of such assets in disregard of the formalities of the purported corporate ownership.

9. Additionally, said private bankers and managers would actively assist or otherwise facilitate certain undeclared United States taxpayers, who such private bankers and managers knew or should have known were evading United States taxes, by meeting with such clients in the United States and communicating with them via United States jurisdictional means on a regular and recurring basis with respect to their UBS undeclared accounts. This enabled the United States clients to conceal from the IRS the active trading of securities held in such accounts and/or the making of payments and/or asset transfer to or from such accounts.

10. As part of the Agreement, UBS agreed to provide the identities and account information for certain United States clients to the United States government that were involved

in the scheme to defraud.

### INVESTIGATIVE DETAILS

11. I have reviewed documents provided by UBS concerning STEVEN MICHAEL RUBINSTEIN'S accounts at UBS in Switzerland. These documents are the basis for the information contained in paragraphs 12 through 21 of this affidavit.

12. There are UBS Swiss bank accounts in the name of Hybridge International, Ltd., ("Hybridge"), a British Virgin Island corporation that was incorporated on September 5, 2001. According to internal UBS documents, including the Form A, Verification of the Beneficial Owner's Identity, dated October 8, 2001, naming STEVEN MICHAEL RUBINSTEIN a beneficial owner of these UBS accounts in the name of Hybridge and listing his address in Boca Raton, Florida, in Palm Beach County within the Southern District of Florida.

13. For identification purposes, STEVEN MICHAEL RUBINSTEIN only provided UBS his South African passport.

14. From 2001 through 2008, STEVEN MICHAEL RUBINSTEIN telephonically communicated with UBS bankers, among other things, directing the purchase and sale of United States securities, the conversion of investments from United States dollars to Great Britain Pounds, and the deposit and transfer of funds into and out of the accounts.

15. From 2001 through 2008, STEVEN MICHAEL RUBINSTEIN personally met with UBS bankers to discuss his UBS Swiss bank accounts. These meetings took place at various locations, including Art Basel Miami, a shopping center in West Palm Beach, STEVEN MICHAEL RUBINSTEIN's personal residence, and various restaurants throughout South Florida. During these meetings, STEVEN MICHAEL RUBINSTEIN discussed with his UBS

bankers, among other things, depositing assets with UBS, the purchase and sale of various investments, and withdrawing money from the UBS account to pay for the construction of his personal residence in Boca Raton, Florida, in Palm Beach County within the Southern District of Florida.

16. From 2001 through 2008, STEVEN MICHAEL RUBINSTEIN corresponded via email on at least ten occasions with UBS bankers to authorize transactions with respect to his UBS Swiss accounts. STEVEN MICHAEL RUBINSTEIN discussed with his UBS bankers, among other things, the depositing of assets at UBS, the purchase and sale of various investments, and the need to withdraw money from the UBS account to pay for the construction of his personal residence.

17. From 2001 through 2008, STEVEN MICHAEL RUBINSTEIN directed the transfer of more than \$3 million from his UBS Swiss bank account to a bank account at HSBC in Monaco and then to a bank account in the name of Duroc Ventures Limited at HSBC in New York for the purchase of property and construction of STEVEN MICHAEL RUBINSTEIN's personal residence in Boca Raton, Florida.

18. From 2001 through 2008, STEVEN MICHAEL RUBINSTEIN deposited and sold more than \$2 million in Kruggerand, South African gold coins, into his UBS Swiss bank accounts.

19. From 2001 through 2008, STEVEN MICHAEL RUBENSTEIN purchased or caused to be purchased securities worth more than 4.5 million Swiss Francs through his UBS Swiss bank accounts.

20. From December 31, 2001 through December 31, 2007, his UBS Swiss bank

accounts contained assets in excess of \$10,000.

21. Based upon interviews conducted and a review of documents obtained during the course of the investigation, there is probable cause to believe that Hybridge International, Ltd. was a nominee entity created by STEVEN MICHAEL RUBINSTEIN and others to conceal his beneficial ownership in his UBS Swiss bank accounts. By opening the accounts in the name of the nominee entity, STEVEN MICHAEL RUBINSTEIN attempted to conceal his offshore assets and income from the IRS.

### **TAX RETURN INFORMATION**

22. For tax years 2001 through 2007, STEVEN MICHAEL RUBINSTEIN was required to file a United States tax return, to report his worldwide income, and to declare the existence of any foreign based financial account in which he had an interest or a signature or other authority over that contained assets in excess of \$10,000. These returns were required to be signed under the penalties of perjury with the declaration that the return and accompanying schedules and statements were examined by STEVEN MICHAEL RUBINSTEIN and that to the best of STEVEN MICHAEL RUBINSTEIN'S knowledge and belief, the return and accompanying schedules and statements were true, correct, and complete.

23. STEVEN MICHAEL RUBINSTEIN filed a United States Individual Tax Return, Form 1040, and accompanying schedules and attachments with the Internal Revenue Service for tax years 2001 through 2007. Each year, STEVEN MICHAEL RUBINSTEIN failed to report on these tax returns any income earned on his UBS Swiss bank accounts. Additionally, each year STEVEN MICHAEL RUBINSTEIN failed to disclose that he had an interest in or a signature or other authority over a financial account in Switzerland.

24. Specifically, on or about April 9, 2008, STEVEN MICHAEL RUBINSTEIN filed a U.S. Individual Income Tax Return Form 1040 for tax year 2007, listing the same Boca Raton address contained on the UBS Form A. The return bears the signature STEVEN MICHAEL RUBINSTEIN and was signed under the penalties of perjury with the declaration that the return and accompanying schedules and statements were examined by STEVEN MICHAEL RUBINSTEIN and that to the best of STEVEN MICHAEL RUBINSTEIN'S knowledge and belief, the return and accompanying schedules and statements were true, correct, and complete. The return was prepared by STEVEN MICHAEL RUBINSTEIN's accountant at his office in Fort Lauderdale, Florida in Broward County with the Southern District of Florida. On Schedule B, Part III of the 2007 tax return, STEVEN MICHAEL RUBINSTEIN failed to report that he had an interest in or a signature authority over a financial account at UBS in Switzerland and he failed to report income earned on his UBS Swiss bank accounts.



CONCLUSION

25. Based upon my review of documents, I believe probable cause exists to believe that STEVEN MICHAEL RUBINSTEIN'S 2007 tax return was materially false in that it failed to report any income earned on his UBS Swiss bank accounts, and it failed to disclose on his 2007 United States Individual Income Tax Return, Form 1040, and accompanying attachments and schedules that he had an interest in or a signature or other authority over a bank Swiss bank account located at UBS, which contained assets in excess of \$10,000, all in violation of Title 26, United States Code, Section 7206(1).



SCOTT JOHNSON  
Special Agent  
INTERNAL REVENUE SERVICE

Subscribed and sworn to before me on this  
\_\_\_\_\_ day of April 2009 in Fort Lauderdale, Florida.

\_\_\_\_\_  
BARRY S. SELTZER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF FLORIDA