UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
-v.-	:	S1 12 Cr. 02 (JSR)
WEGELIN & CO., *et al.*,	:	
Defendants.	:	

GOVERNMENT'S SENTENCING MEMORANDUM

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February 25, 2013

By Hand
The Honorable Jed S. Rakoff
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1340
New York, New York 10007-1312

Re: United States v. Wegelin & Co., *et al.*
S1 12 Cr. 02 (JSR)

Dear Judge Rakoff:

In advance of the sentencing of defendant Wegelin & Co. ("Wegelin" or the "defendant"), currently scheduled for March 4, 2013, at 4 p.m., the Government respectfully submits this Sentencing Memorandum.

For the reasons set forth below, the Government respectfully requests that the Court:

(1) impose a fine of $22,050,000, which is the midpoint of the applicable Sentencing Guidelines fine range, and impose a short term of probation;

(2) order the defendant to pay $20,000,001 in restitution to the victim of its illegal conduct, representing the approximate unpaid taxes as of the date of sentencing; and

(3) enter the proposed Final Order of Forfeiture of $15,821,000, representing what counsel for Wegelin has stated are the gross fees earned by Wegelin as a result of its illegal conduct.

I. Wegelin's Criminal Conduct

A. The Conspiracy to Defraud the IRS and to Evade Taxes

Starting in the early 2000's and continuing well into 2011, Wegelin engaged in a wide-ranging conspiracy with, among others, hundreds of U.S. taxpayers to evade taxes, file false tax returns, and defraud the Internal Revenue Service (the "IRS"). As demonstrated by the facts in the Superseding Indictment (the "Indictment") returned on February 2, 2012 (attached hereto as Exh. A), the civil forfeiture Complaint (the "Complaint") filed by the Government on the same day (attached hereto as Exh. B), and the Presentence Report, dated February 25, 2013 (the "PSR"), Wegelin's conduct was extraordinarily willful and caused substantial harm to the United States Treasury.

As set forth more fully below, Wegelin's extraordinarily willful conduct includes:

(1) the use of sham structures to hold accounts at Wegelin;

(2) the use by Wegelin of its U.S. correspondent bank account to help U.S. taxpayers repatriate funds hidden in undeclared accounts; and

(3) Wegelin's affirmative efforts to capture undeclared U.S. taxpayer business from UBS AG ("UBS") , another Swiss bank that engaged in similar conduct, after it became public that UBS was being investigated by the Department of Justice.

B. The Use of Sham Structures to Hold Accounts at Wegelin

Wegelin facilitated the opening of accounts in the names of sham foreign corporations and other entities, such as Liechtenstein-based foundations (an entity akin to a trust under U.S. law), including with the express approval of Wegelin management. The purpose of this conduct was, of course, to insulate the U.S. clients who were the beneficial owners of the assets and income in these accounts from scrutiny by the IRS. In conjunction with the opening of some of these accounts, Wegelin knowingly accepted forms -- sometimes executed by external asset managers on behalf of U.S. clients -- certifying that a foreign corporation or other entity was the beneficial owner of the account. As Wegelin was well aware, the forms were false and, in fact, the U.S. taxpayers were the beneficial owners of the accounts. In some instances, Wegelin employees enlisted the help of outside professionals to assist U.S. taxpayers in forming sham entities. See Indictment ¶ 82. There can be little doubt, and it had to have been obvious to Wegelin, that U.S. taxpayers would not spend substantial fees on lawyers and other professionals to create and maintain these structures, see, e.g., Indictment ¶¶ 54, 81-82, but for the desire to evade taxes.

The Liechtenstein foundations and corporations formed under the laws of Hong Kong, the British Virgin Islands, the Cayman Islands, and Panama were the typical offshore structures used by U.S. tax evaders. These entities were a sham not so much because the formalities of these structures were not obeyed (in many instances these formalities were respected). Rather, they were a front used for tax evasion and a fig leaf for the U.S. taxpayers' failure to disclose the account to the IRS. Of course, the rules requiring disclosure of foreign bank accounts are specifically drafted to preclude U.S. taxpayers from erecting sham entities as a way of avoiding their obligations to disclose offshore bank accounts to the IRS:

> A United States person that causes an entity, including but not limited to a corporation, partnership, or trust, to be created for a purpose of evading this section [requiring generally the disclosure of offshore financial accounts containing over $10,000 and over which a U.S. taxpayer has signature or other authority] shall have a financial interest in any bank, securities, or other financial account in a foreign country for which the entity is the owner of record or holder of legal title.

31 C.F.R. § 1010.350(e)(3). Over the course of the conspiracy, approximately 30% of the undeclared accounts held by U.S. taxpayers at Wegelin were in the name of these sham structures.

C. Wegelin Used Its U.S. Correspondent Bank Account to Help U.S. Taxpayers Repatriate Funds Hidden in Undeclared Accounts

Some of the hundreds of U.S. taxpayers who conspired with Wegelin to evade taxes wanted funds from their accounts hidden in Switzerland made available to them in the United States, that is, to repatriate money from their undeclared Swiss accounts. Wegelin assisted these taxpayers by sending checks drawn on its U.S.-based correspondent bank account to the taxpayers in the U.S. or to payees designated by the taxpayers. In some instances, Wegelin transferred funds via wires. Some of the U.S. taxpayers who took advantage of this service selected amounts for the checks designed to conceal their undeclared accounts from the IRS, a fact that was obvious to Wegelin from the circumstances surrounding the requests.

Furthermore, Wegelin also permitted other Swiss banks -- described in the Indictment and Complaint as Swiss Bank C and Swiss Bank D -- to use Wegelin's correspondent bank account in similar fashion, which had the effect of further insulating the U.S. taxpayers holding undeclared accounts at Swiss Bank C and Swiss Bank D from scrutiny by U.S. law enforcement. Swiss Bank C and D had what is typically referred to as a "nested correspondent bank" relationship with Wegelin. See Complaint ¶ 23. Nested correspondent bank accounts "pose a further money-laundering risk because they provide additional foreign financial institutions access to the U.S. financial system and make it more difficult to identify the source and nature of the funds being sent to or from a correspondent account at a U.S. financial system." Complaint ¶ 20.

Rather than one large check or wire for these checks, it was often the case that batches of multiple checks (or wires) in smaller amounts were prepared by Wegelin on the same day in order to minimize the risk of scrutiny or detection of the transaction by U.S. financial institutions or government authorities and the discovery of the U.S. taxpayer-clients' undeclared accounts. See Indictment ¶¶ 32, 98, 115, 126, 137; Complaint ¶¶ 51, 62, 78-82. Below is one example of a series of checks drawn on Wegelin's correspondent bank account that were all payable to the same U.S. taxpayer with an undeclared account at Wegelin, see Complaint ¶¶ 43-44.

Wegelin Correspondent Bank Account 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**

The same sort of suspicious pattern -- multiple checks, each in amounts less than $10,000, and requested on the same day -- occurred for customers of Swiss Bank C. For example, one U.S. taxpayer with an account at Swiss Bank C asked his client advisor there to have checks issued to a company controlled by the client in the following manner:

> Please send in batches of three, USD cheques made in favor of [an entity controlled by the client] (our subchapter S corporation) as follows:
>
> One month after the inception of the account, $4788, $4908, $4889.
>
> Two months later, $4833, $4805, $4922
>
> Three months later, $3555, $4245, $4010

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

Complaint ¶ 79; see also id. ¶¶ 80-81.

Checks were sometimes made payable to corporate entities affiliated with the U.S. taxpayer-client, family members of the U.S. taxpayer, or other designated payees, rather than the U.S. taxpayer himself or herself, which also helped to obscure the relationship between the U.S. taxpayer-client and the undeclared funds. See, e.g., Indictment ¶ 131; Complaint ¶ 51.

At the request of U.S. taxpayer-clients to their Wegelin client advisors or Swiss asset managers, funds were sent from Wegelin's correspondent bank account to third parties who provided goods or services to U.S. taxpayers, thus allowing the U.S. taxpayer the benefit of these undeclared funds in a manner designed to make the source of the funds more difficult to detect. See, e.g., Indictment ¶ 111; Complaint ¶¶ 56-59.

D. Wegelin's Conduct After the U.S. Investigation of UBS Became Public

Perhaps the best example of the extreme willfulness of Wegelin's conduct occurred towards the end of the conspiracy. In early May 2008, the fact that UBS was being investigated by the Department of Justice became public and widely discussed in the press. UBS itself disclosed, among other things, that the Department of Justice was investigating whether certain U.S. clients sought, with the assistance of UBS client advisors, to evade their U.S. tax obligations. At the same time, UBS also disclosed that the Securities and Exchange Commission (the "SEC") was also investigating whether UBS engaged in activities in the United States that triggered an obligation to register with SEC as a broker-dealer. The fact that there was a tax-related investigation of UBS was widely reported in the U.S. and European press. In July 2008, UBS announced that it was closing its U.S. cross-border banking business. Thereafter, UBS began to inform its U.S. taxpayer-clients that it was closing their undeclared accounts. See generally Indictment ¶¶ 13, 18-19.

The disclosure of the UBS investigation presented Wegelin with a stark choice: Either Wegelin could have been deterred by the Department of Justice's tax-related investigation of UBS and concluded that it should exit the business of assisting U.S. taxpayers in evading taxes. Or Wegelin could have viewed the steady outflow from UBS of customers as an opportunity to obtain assets under management ("AUM"), market share in the private wealth management business, and ultimately profits. Wegelin chose the latter course and chose to view the investigation of UBS and the resulting exodus of UBS customers as a business opportunity,

rather than as an example to be avoided. This fact, by itself, strongly evidences Wegelin's willfulness. The message of deterrence generated by the fact that one of the largest and most prominent Swiss banks was being investigated for helping U.S. taxpayers evade their tax obligations simply was not received by Wegelin. And after Wegelin decided to accept customers leaving UBS, it became widely known in Swiss private banking circles that Wegelin was opening new undeclared accounts for U.S. taxpayers. See Indictment ¶ 19. For example, former UBS client advisors and a Los Angeles-based attorney specifically referred U.S. clients to Wegelin for the purpose of opening undeclared accounts. See, e.g., Indictment ¶¶ 28-29, 36, 49, 54.

After the UBS investigation became public, the Executive Committee of Wegelin -- a group of partners and others that controlled Wegelin -- affirmatively decided to capture the illegal U.S. cross-border banking business lost by UBS by opening new undeclared accounts for U.S. taxpayer-clients fleeing UBS. One of the managing partners of Wegelin announced this decision to team leaders of the client advisors in Wegelin's Zurich branch, some of whom openly questioned whether this decision was a wise one. In response, an executive of Wegelin told the team leaders that Wegelin was not exposed to the risk of prosecution that UBS faced because Wegelin was smaller than UBS and that Wegelin could charge high fees to its new U.S. taxpayer-clients because they were afraid of criminal prosecution in the United States. See Indictment ¶¶ 13, 19-20. This advice by a member of Wegelin's senior management is all the more egregious by virtue of that executive's extensive training as a lawyer and experience in law enforcement. See PSR ¶ 41.

In conjunction with top-level management's decision to capture the exodus of UBS clients, one of the managing partners of Wegelin supervised the creation of a list of client advisors at Wegelin's Zurich branch who were available to meet with potential U.S. taxpayer-clients, many of whom walked into the Zurich branch of Wegelin seeking to open new undeclared accounts. See Indictment ¶ 21. The fact that Wegelin, a private bank that did not normally accept walk-in clients, accepted such clients in this fashion further demonstrates Wegelin's extraordinary willfulness.

Thereafter, Wegelin experienced a truly striking growth in: (1) the number of U.S. taxpayers whom it was assisting in evading taxes: (2) the assets that it managed for these clients; (3) the fees received by Wegelin from this conduct; and (4) the relative importance of the business of helping U.S. taxpayers engage in tax fraud, as expressed as a percentage of its total AUM. As the following chart demonstrates, see PSR ¶ 50, Wegelin's AUM nearly tripled from the end of 2007 through the end of 2009 and the percentage of Wegelin's total AUM that was comprised of undeclared assets held on behalf of U.S. taxpayers more than doubled from the end of 2007 through the end of 2009:

As of	Total Undeclared Accounts for U.S Persons	AUM Held in Undeclared Accounts for U.S. Persons	Undeclared AUM as a Percentage of Wegelin's Total AUM	Total Fees from Undeclared Accounts for U.S. Persons, As Represented by Wegelin
12/31/2002	89	$87,900,000	2.3%	$479,022
12/31/2003	143	$172,700,000	3.2%	$590,162
12/31/2004	167	$206,500,000	2.8%	$689,711
12/31/2005	195	$214,000,000	2.5%	$769,255
12/31/2006	217	$309,700,000	2.6%	$890,618
12/31/2007	**252**	**$544,000,000**	**3.4%**	**$1,253,943**
12/31/2008	**558**	**$790,600,000**	**4.5%**	**$1,930,345**
12/31/2009	**684**	**$1,500,000,000**	**7.0%**	**$4,583,122**
12/31/2010	539	$1,200,000,000	4.9%	$4,634,822

In connection with accepting former UBS clients as Wegelin customers starting in mid-2008, Wegelin's management became more directly involved in the account-opening process. For example, Wegelin management participated in meetings with prospective clients at which client advisors sought to reassure prospective U.S. taxpayer-clients that Wegelin would not disclose their identities or account information to the IRS because Wegelin had a long tradition of bank secrecy and, unlike UBS, did not have offices outside Switzerland, thereby making Wegelin less vulnerable to United States law enforcement pressure. See Indictment ¶¶ 14, 21, 83.

In preparation for these meetings, members of Wegelin's management videotaped training sessions with client advisors of the Zurich branch to instruct them on their delivery of certain selling points to be made to U.S. taxpayers fleeing UBS. These selling points included the fact that Wegelin had no branches outside Switzerland and was small, discreet, and, unlike UBS, not in the media. Eventually, management of Wegelin's Zurich branch required that all new U.S. taxpayer accounts be approved by a specific managing partner or a specific executive. See Indictment ¶¶ 21-23.

While Wegelin was still taking in UBS clients, UBS itself resolved the U.S. investigation that it had disclosed in May 2008. UBS did so pursuant to a deferred prosecution agreement that UBS entered into with the Department of Justice in February 2009. As a term of the deferred prosecution, UBS agreed to pay the United States a total of $780 million: $380 million of disgorgement of profits from earned through its U.S. cross-border business, about half of which was paid to the Treasury and half of which was paid to the SEC; and $400 million for various taxes, interest, and penalties for undeclared United States taxpayers who were actively assisted or facilitated by UBS private bankers who met these clients in the United States and communicated with them via United States jurisdictional means on a regular and recurring basis. See UBS Enters Into Deferred Prosecution Agreement (available at <<www.justice.gov/tax/txdv09136.htm>>).

This was another opportunity for Wegelin to receive the message of deterrence, even though UBS was many times larger than Wegelin and had many more undeclared accounts and much more undeclared AUM than Wegelin. At this point, far beyond just an investigation, one of the largest and most prominent Swiss banks with one of the largest U.S. cross-border businesses had actually been charged with conspiring to defraud the IRS and had actually admitted in detail to having engaged in this conduct. See United States v. UBS AG, Information 09-60038-cr (S.D. Fla.) (available at << http://www.justice.gov/tax/UBS_Filed_Stamped_Information.pdf>>). And, to resolve the criminal prosecution, UBS also agreed to pay the United States $780 million consisting of disgorgement of profit and substantial restitution and agreed to a host of other measures, such as exiting the illegal business, disclosure of certain accounts of U.S. taxpayers to the United States, and appointment of an external auditor to ensure compliance with various obligations under the deferred prosecution agreement. See United States v. UBS AG, Deferred Prosecution Agreement (available at <<www.justice.gov/tax/UBS_Signed_Deferred_Prosecution_Agreement.pdf>>). But Wegelin was undeterred even by this. Wegelin continued to accept new clients from UBS for six months after the UBS resolution, and continued helping U.S. taxpayers evade their taxes until 2011. See PSR ¶ 88.

About a month after the UBS deferred prosecution was announced and in its wake, the IRS created a version of its longstanding voluntary disclosure program that was specifically designed for U.S. taxpayers who had undeclared accounts offshore, the Offshore Voluntary Disclosure Program (the "OVDP"). The basic outlines of the offshore voluntary disclosure program were that: (1) if a taxpayer with an undeclared offshore account answered various questions, committed to cooperating with the IRS, and paid back taxes, interest, and some penalty; (2) then the IRS would not recommend the taxpayer for criminal prosecution. The 2009 OVDP was time-limited and expired in October 2009. See generally 2009 Offshore Voluntary Disclosure Program (available at << www.irs.gov/uac/2009-Offshore-Voluntary-Disclosure-Program>>).[1]

[1] Eventually, the IRS re-opened the same program on slightly different terms. The current initiative remains available for U.S. taxpayers. See generally 2011 Offshore Voluntary Disclosure Initiative (available at <<www.irs.gov/uac/2011-Offshore-Voluntary-Disclosure-Initiative>>); 2012 Offshore Voluntary Disclosure Program (available at <<www.irs.gov/uac/2012-Offshore-Voluntary-Disclosure-Program>>).

As of June 2012, the IRS had received more than $5 billion in back taxes, interest, and penalties as the result of approximately 34,500 voluntary disclosures. See IRS Says Offshore Effort Tops $5 Billion, Announces New Details on the Voluntary Disclosure Program and Closing of Offshore Loophole (available at <<www.irs.gov/uac/IRS-Says-Offshore-Effort-Tops-$5-Billion,-Announces-New-Details-on-the-Voluntary-Disclosure-Program-and-Closing-of-Offshore-Loophole>>).

After the IRS' announcement of the OVDP, Wegelin changed various aspects of its business, changes that further demonstrate the willful nature of its conduct. For example, the typical restriction that Wegelin client advisors placed on contacts by clients with the bank from the United States was lifted once a client had informed a client advisor that he or she had voluntarily disclosed their Wegelin account to the IRS. See, e.g., Indictment ¶ 51. In at least one known instance, a Wegelin client advisor advised the husband of a U.S. client with an undisclosed account not to make a voluntary disclosure. See Indictment ¶ 33.

Because the U.S. clients who intended to make a voluntary disclosure needed information concerning their accounts, U.S. clients began to request account statements and other documents from Wegelin once they determined to make a voluntary disclosure. In response to the expected disclosure of client advisors' names to the IRS through the submission of documents as part of the voluntary disclosure program, one of the managing partners of Wegelin announced to team leaders of the Zurich Branch that client advisors' names would no longer appear on certain Wegelin records. Thereafter, some client advisors' names were replaced by "Team International," or a similar designation, on certain Wegelin records, so as to reduce the risk that these client advisors' names would become known to the IRS. See Indictment ¶ 24.

After about a year of taking in U.S. clients leaving UBS, Wegelin's executive committee decided that Wegelin would no longer open new accounts for U.S. taxpayers. But even at that point, Wegelin continued to service its existing undeclared U.S. taxpayer accounts and did not decide to exit the illegal business until 2011. See Indictment ¶ 25; PSR ¶ 88.

Despite the decision to no longer open new accounts for U.S. taxpayers, Wegelin, acting through Michael Berlinka, a client advisor who has been charged in this case and remains a fugitive, and a Wegelin executive, see PSR ¶ 44, opened at least three new undeclared accounts for U.S. taxpayers who had fled a different Swiss bank when it, like UBS, closed its U.S. cross-border banking business for both new and existing U.S. taxpayer-clients. This occurred in approximately late 2009 or early 2010. Each of the three new U.S. taxpayer-clients had at least two passports: one from the United States and one from a second country. In each case, Wegelin personnel opened the new undeclared account under the passport of the second country, even though Wegelin personnel were well aware that the clients were U.S. taxpayers by virtue of their possession of U.S. passports. See Indictment ¶ 25.

E. Other Indicia of Wegelin's Willful Conduct

Besides the use of sham entities, the use of its correspondent bank account, and its post-UBS conduct, there are other indicia of Wegelin's willfulness. These include:

(1) Wegelin's directing U.S. clients with undisclosed accounts not to call or send faxes from the U.S. because of a concern about U.S. law enforcement, unless the clients advised Wegelin that they had made a voluntary disclosure to the IRS;

(2) Wegelin's general refusal to send mail to the United States in order to ensure that the conduct of Wegelin and its U.S. clients did not come to the attention of U.S. law enforcement; and

(3) At least one client advisor's: (1) wiring funds to the U.S. bank account of a Wegelin client from a Wegelin account through Wegelin's correspondent bank account; (2) requesting that client to withdraw the wired funds from his U.S. bank account; (3) so that the client advisor could collect the cash from the first Wegelin client; and (4) give it, during a meeting at a Manhattan restaurant, to a second U.S. client who had an undeclared account at Wegelin, a series of maneuvers that the client advisor described as necessary because it was becoming increasingly difficult to move funds out of Switzerland.

See, e.g., Indictment ¶¶ 26-33, 36-37, 48-51, 58-60, 67-68, 87-90, 120-21; Complaint ¶¶ 65-68.

II. The Appropriate Sentence

The Government submits that, under the unique circumstances present in this case, the very substantial fine stipulated to by the parties -- $22,050,000 -- is an appropriate sentence, particularly when considered with the substantial restitution and forfeiture that are part of this case. The Government submits that such a fine adequately balances all of the factors that a sentencing court is required to consider under 18 U.S.C. § 3553(a). The Government further requests that the Court also impose a short term of probation.

A. The Sentencing Guidelines Calculation and the Maximum Possible Fine

In the plea agreement, the parties have stipulated to a Fine Range of between $14.7 million and $29.4 million. This is the product of the following:

(1) an offense level of 30, based on:

(a) a base offense level of 28 (for tax loss between $20 million and $50 million), pursuant to U.S.S.G. § U.S.S.G. §§ 2Tl.l(a)(l) and 2T4.l(L);

(b) a 2-level increase because Wegelin's offense involved sophisticated means, pursuant to U.S.S.G. § 2Tl.l(b)(2); see also U.S.S.G. § 2T1.1, comment. (n.4) ("Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore financial accounts ordinarily indicates sophisticated means");

(3) a culpability score of 7, based on:

(a) an initial Culpability Score of 5;

(b) a 3-point increase because Wegelin had more than 200, but less than 1,000 employees, and because "individuals within high-level personnel of the organization," specifically various partners of Wegelin, "participated in [and] condoned" the illegal conduct, pursuant to U.S.S.G. § 8C2.5(b)(3)(A); and

(c) a 1-point decrease, assuming Wegelin's clear demonstration of acceptance of responsibility;

(4) a fine multiplier of 1.4 to 2.7, pursuant to U.S.S.G. § 8C2.6;

(5) a base fine of $10.5 million, pursuant to U.S.S.G. §§ 8Al.2, (comment. (n.3(H)), and 8C2.4(a, d); and

(5) a fine range of $ $14,700,000 to $29,400,000 (= $10.5 million base fine x 1.4 to 2.7), pursuant to U.S.S.G. § 8C2.7.

See PSR ¶¶ 108-21.

The parties have agreed to both seek a fine that is the midpoint of the fine range, $22.05 million.

In this case, Wegelin allocuted during its guilty plea that "its agreement to assist U.S. taxpayers in evading their U.S. tax obligations in th[e] manner [that Wegelin described elsewhere in the guilty plea] resulted in a loss to the [IRS]" of "$20,000,001." As a result of this allocution, the maximum possible fine that the Court may impose is $40,000,002. See 18 U.S.C. § 3571(d) ("If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss"); Southern Union Co. v. United States, 132 S. Ct. 2344 (2012) (holding that requirement of a jury verdict or guilty plea to increase defendant's prescribed statutory maximum sentence applies to criminal fines); see also United States v. Pfaff, 619 F.3d 172 (2d Cir. 2010).

B. The Agreed-Upon Fine Is One of Several Financial Consequences to the Defendant

At the outset, it must be noted that whatever fine the Court ultimately imposes is only one among several serious financial consequences to the defendant that have resulted from this prosecution. In addition to any fine imposed by the Court, the defendant has agreed to: (1) pay the victim of Wegelin's conduct, the IRS, the approximate amount of unpaid taxes, $20,000,001, resulting from Wegelin's illegal conduct; and (2) forfeit the gross fees that Wegelin has represented that it received as a result of its illegal conduct, $15.821 million. In setting the appropriate fine, the Court should consider the entire range of financial consequences to the defendant in arriving at the appropriate fine. A fine that exceeds by nearly 10% the approximate taxes that presently remain unpaid ($22,050,000 v. $20,000,001) and that exceeds by nearly 40% the gross fees ($22,050,000 v. $15,821,000 million) is a substantial one.

In addition to a fine, restitution, and disgorgement, the Government has already forfeited approximately $16.26 million from Wegelin's correspondent bank account, pursuant to the civil forfeiture Complaint (Exh. B). The Complaint was unsealed contemporaneously with the return of the Indictment. What was forfeited from Wegelin's correspondent bank account was not the laundered proceeds of Wegelin's illegal conduct under 18 U.S.C. § 981(a)(1)(B), i.e., was not taxes that should have been paid by U.S. taxpayers who had hidden money at Wegelin. Rather, the Complaint related to the covert repatriation of funds from undeclared accounts at Wegelin and other Swiss banks, funds that were comingled with other funds in Wegelin's correspondent bank account. All of the funds in the correspondent bank account were forfeited as property involved in money laundering, pursuant to 18 U.S.C. § 981(a)(1)(A), because the presence of both the funds being covertly repatriated and other funds passing through the account in unrelated transactions helped to make the repatriation of the undeclared funds more difficult to detect. See Indictment ¶¶ 2, 38.

A fine of $22.05 million, when considered together with $20+ millions of restitution and $32.02 million of forfeiture, is substantial.

C. Wegelin's Extraordinarily Willful Conduct Justifies the Substantial Fine

Beyond the totality of the financial consequences of the prosecution to Wegelin, "the nature and circumstances" of Wegelin's illegal conduct, 18 U.S.C. § 3553(a)(1), also justifies the $22.05 million penalty.

As the facts set forth above and in the PSR demonstrate, Wegelin's conduct was extraordinarily willful and the conduct merits the substantial fine agreed to by the parties. This is not a case in which Wegelin passively provided U.S. taxpayers with a service that just so happened to be used by U.S. taxpayers to evade their taxes. Nor is this even a case in which Wegelin turned a blind eye to how run-of-the-mill banking services were being utilized by U.S.

taxpayers. Rather, Wegelin actively assisted U.S. clients in achieving the illegal ends and had a stake in their abilities to achieve the ends of tax evasion because of the fees to be earned.

After all, without providing U.S. taxpayers with a means to evade taxes, the vast majority of Wegelin's U.S. clients never would have held their accounts there. For example, most of Wegelin's U.S. clients would not have been willing to pay its fees and have relatively limited access to their client advisors were it not for the ability to evade taxes that Wegelin provided. Moreover, Wegelin structured several aspects of its operations to facilitate the evasion of U.S. taxes and, at the same time, to minimize the risk that the bank, and its employees, would be prosecuted by U.S. authorities.

Wegelin's conduct is all the more egregious because Wegelin was undeterred by the investigation and prosecution of UBS, another, albeit much larger, bank that engaged in similar conduct. At not one, but at two crucial junctures during the conspiracy, Wegelin was undeterred. When the Department of Justice's investigation of UBS for helping U.S. taxpayers evade became widely publicized in May 2008, Wegelin decided to welcome U.S. taxpayers and to profit from the UBS investigation, rather than see UBS' experience as an example to be avoided. And, worse, when UBS was actually charged with committing a crime under U.S. law, admitted doing so, and resolved the charge via a deferred prosecution agreement -- part of which was a large payment -- Wegelin kept assisting U.S. taxpayers in evading taxes and did so for a significant period of time. Wegelin's choice to ignore the message of deterrence to be sent by the investigation and prosecution of UBS is all the more egregious when compared with some other Swiss banks. Some, although by no means all, other Swiss banks, did, in fact, exit the business of providing U.S. taxpayers with services designed to help them evade taxes after the UBS investigation became public or after the UBS deferred prosecution was announced.

The substantial fine is further justified by the reasons that Wegelin has publicly stated for this very serious conduct. When it pled guilty, Wegelin explained that it engaged in the charged conduct because: (1) other Swiss banks were doing the same thing; (2) Wegelin was not violating Swiss law; and (3) Wegelin believed that it was beyond the practical ability of the United States to prosecute it. Specifically, immediately after admitting that it knew that certain of its conduct was wrong, Wegelin stated:

> 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.

1/3/13 Tr. at 16 (copy attached hereto as Exh. C).

None of these is a remotely good excuse, or even a good explanation. And rather than mitigate Wegelin's offense, they are aggravating factors. The notion, for example, that a financial institution would engage in a fraud upon the United States and would deprive the United States of tax revenue to which it is legitimately entitled because it believed that it could not, as a practical matter, be prosecuted by the United States, is entirely offensive.

Indeed, the prosecution of Wegelin is well within the bounds of the extraterritorial application of federal criminal law. Our Constitution permits, consistent with constitutional due process, the extraterritorial application of federal criminal law to non-citizens acting entirely abroad "when the aim of that activity is to cause harm inside the United States or to U.S. citizens or interests." United States v. Al Kassar, 660 F.3d 108, 118 (2d Cir. 2011); see also United States v. Mardirossian, 818 F. Supp. 2d 775, 776 (S.D.N.Y. 2011) (noting that presumption against extraterritorial application of criminal statutes does not apply to statutes that are "not logically dependent on their locality for the government's jurisdiction, but are enacted because of the right of the government to defend itself against obstruction, or fraud wherever perpetrated") (citing United States v. Bowman, 260 U.S. 94, 98 (1922)). Because Wegelin was assisting U.S. taxpayers in depriving the United States of tax revenue, Wegelin plainly had the aim of causing harm in the United States. Nothing more than this was required to hail Wegelin into a U.S. court.

Plus, even beyond the fact that Wegelin intended a harm to the United States through its illegal conduct, there was the extensive use by Wegelin of U.S. jurisdictional means in committing the charged conduct. Among other things, there was: a U.S.-based correspondent bank account that was employed as part of Wegelin's criminal conduct; travel to the United States for the purposes of facilitating the fraud; and telephone calls, mail, faxes, and other wire transmissions to and from the United States for the same purpose. See Indictment ¶¶ 1, 15, 16(f, g, i, j), 32, 83, 98, 120. This was not remotely an aggressive exercise of federal jurisdiction.

Wegelin's explanation of its conduct that it was acting in accordance with Swiss law should also be rejected. It entirely contravenes the notion of comity among nations that a financial institution can hide behind its own law as a defense to actively and knowingly assisting the citizens of another country in violating the law of their home country and evading the taxes of their home country. This too is an aggravating, rather than a mitigating, factor.

In addition to the reasons for engaging in this illegal conduct that Wegelin gave at the time of its guilty plea, Wegelin has on other occasions articulated additional reasons for providing a haven for tax evaders. Specifically, Wegelin has justified the provision of these illegal services as a legitimate act of financial self-defense against the claimed excessive taxation by other countries. As Konrad Hummler, one of the two lead managing partners of Wegelin and a former president of the Swiss Private Bankers Association, was quoted in The Guardian, a British newspaper, in early 2009, as follows:

> Swiss bankers themselves estimate that they hold at least 30% of the estimated $11.5 trillion of personal wealth hidden in the world's tax havens. Konrad Hummler, president of the Swiss private bankers' association, has said: "The large majority of foreign investors with money placed in Switzerland evade taxes."
>
> And he remains unapologetic. He acknowledged to the Guardian that Swiss banks siphon off other governments' revenue.
>
> "I admit it is undemocratic," he said. "But I have a feeling that the democratic system went way beyond their legitimate role against the taxpayer. What these states do may be legal, but it is not legitimate."

In the Country Where Tax Evasion Is No Crime, Swiss Private Banks Are Unrepentant About Siphoning Off Other Governments' Income, The Guardian, Feb. 4, 2009 (available at << www.guardian.co.uk/business/2009/feb/05/tax-gap-avoidance-switzerland>>) (attached hereto as Exh. D). The notion that a financial institution would take advantage of, and actively promote, its home country's bank secrecy laws in order to provide a safe haven for those who would evade the taxes of another country and then justify it because of its belief that the tax policies of the other country are wrong should be repudiated, like the rest of Wegelin's justifications of its illegal conduct. The imposition of the substantial fine agreed to by the parties in this case will serve to reject conclusively these notions.

D. The Need for Deterrence Supports the Substantial Fine

"[The need for the sentence imposed . . . to afford adequate deterrence to criminal conduct," 18 U.S.C. § 3553(a)(2)(B), also compels the imposition of the $22.05 million fine. The Government does not contend that Wegelin itself, or its partners or employees, are greatly in need of specific deterrence. Rather, general deterrence weighs in favor of the substantial $22.05 million fine.

There will always be U.S. taxpayers who do not wish to pay their fair share of taxes and there will always be a very small subset of these U.S. taxpayers who are willing to engage in criminal activity in order to evade their tax obligations. In a world with a financial system that is as globally interconnected as ours is today, some of these tax evaders will inevitably look to offshore banks as a place to hide their money and the income generated by their money. And there will likely always be offshore financial institutions that knowingly provide these services in order to profit from the desire of some U.S. taxpayers to evade their taxes, just as Wegelin did. This conduct must be deterred.

Deterrence is all the more required lest other banks engage in the illegal conduct for one of the reasons stated by Wegelin: the fact that "such conduct was common in the Swiss banking industry." 1/3/13 Tr. at 16 (emphasis). The claimed commonality of criminal conduct, be it in

Switzerland or wherever else in the world, does not remotely justify knowingly and willfully violating the law of another country. This is particularly true with tax-related conduct, which is widely viewed as underprosecuted. See U.S.S.G. § 2T1.1, intro. comment. ("Because of the limited number of criminal tax prosecutions relative to the estimated incidence of such violations, deterring others from violating the tax laws is a primary consideration underlying these guidelines. Recognition that the sentence for a criminal tax case will be commensurate with the gravity of the offense should act as a deterrent to would-be violators.").

Tax crimes, like many other white collar crimes, are difficult to detect. Here, Wegelin's crime was particularly difficult to detect, in part, because it was largely committed from overseas. In addition, Wegelin's crime was difficult to detect because Swiss bank secrecy laws make evidence gathering exponentially more difficult. Indeed, before the deferred prosecution of UBS and the voluntary disclosure program, prosecutions of U.S. taxpayers taking advantage of Swiss bank secrecy to evade taxes were uncommon. The substantial fine agreed to by the parties will, the Government submits, send a message of deterrence to banks that would use those same laws, and similar laws in other jurisdictions, as both a sword -- a means to encourage U.S. taxpayers to utilize their services in order evade U.S. taxes -- and a shield -- by taking advantage of the difficulty that bank secrecy poses to investigators who would root out such tax evasion.

Some deterrence has surely been achieved by the very prosecution of Wegelin and the forfeiture of substantial funds in Wegelin's correspondent bank account, a strong message to those who would believe that, without a physical presence in the United States, they cannot be reached by U.S. law enforcement. Financial institutions that wish to transact in U.S. dollars are greatly in need of correspondent bank accounts in the United States and the forfeiture of funds in Wegelin's account sends the message that the lack of physical presence will never be an impediment to U.S. law enforcement's acting to protect the IRS' ability to collect revenue from U.S. taxpayers. But without a fine imposed as punishment, the message of deterrence will not be fully realized.

E. Other Aspects of the Fine

Wegelin has agreed to pay any fine imposed by the Court within three days of the entry of the judgment in this case. The Government respectfully requests that the Court so order the same terms in imposing sentence. See U.S.S.G. § 8C3.2 ("immediate payment of the fine shall be required unless the court finds that the organization is financially unable to make immediate payment or that such payment would pose an undue burden on the organization").

Wegelin has the financial ability to make an immediate payment of any fine, as well as restitution, and that immediate payment of both would not impose an undue burden on Wegelin. As the PSR notes, Wegelin sold its non-U.S. business to another financial institution for CHF 560 million, or approximately $613 million at the exchange rate of .9126 Swiss francs per U.S. dollar as of the approximate date of the transaction. Based on the managing partners' nearly

56% ownership (direct and indirect) of Wegelin, the managing partners themselves realized approximately CHF 313.38 million from the sale, or more than $343.4 million. See PSR ¶¶ 95-96; see id. ¶¶ 81-82 (managing partners' ownership of 4.2% of bank plus 63.2% of Wegelin & Co. AG, which owns 81.9% of bank; 4.2% + (63.2% x 81.9%) = 56%). Furthermore, Wegelin generated an average yearly profit of approximately CHF 29.5 million for the period from 2002 through 2011. PSR ¶¶ 103-04. In addition, the Swiss Financial Market Supervisory Authority ("FINMA") required, as a condition of the sale of Wegelin's non-U.S. business, than CHF 100 million (approximately $107.37 million at today's exchange rate) be reserved for resolution of this case. PSR ¶ 96. There can be little question of Wegelin's ability to pay a fine within three days after the entry of judgment.

The Government respectfully submits that the stipulated fine of $22.05 million is the appropriate sentence. However, if the Court is inclined to impose a larger fine, the Government respectfully requests, pursuant to its plea agreement with the defendant, that the Court apply the gross fees from Wegelin's illegal business that Wegelin has agreed to forfeit ($15,821,000) towards the maximum fine that the Court may legally impose ($40,000,002). That is, the Government requests that, if the Court is inclined to impose a fine larger than $22,050,000, it not impose a fine greater than $24,179,002 (the maximum fine of $40,000,002 less the forfeited fees of $15,821,000). Although the disgorgement of ill-gotten gains serves a purpose distinct from the imposition of a fine, the Government submits that Wegelin's agreement to forfeit fees earned as a result of its illegal conduct should inure to its benefit.

F. The Court Should Impose a Short Term of Probation

A term of probation is authorized by 18 U.S.C. § 3561(a). The Sentencing Guidelines suggest that a term of probation be imposed "if the organization is sentenced to pay a monetary penalty (e.g., restitution, fine, or special assessment), the penalty is not paid in full at the time of sentencing, and restrictions are necessary to safeguard the organization's ability to make payments." U.S.S.G. § 8D1.1(a)(2). Here, a short term of probation will help ensure that the defendant pays any restitution and fine that the Court imposes. A period of probation may also be useful to ensure that Wegelin winds down its affairs and completely exits, and does not re-enter, the business of providing undeclared accounts to U.S. taxpayers. The Court has the discretion to fashion a condition of probation requiring periodic reporting by Wegelin of the status of its efforts to do so. See PSR ¶¶ 88, 97-99; U.S.S.G. § 8D1.4(b)(3) (court may require as condition of probation "periodic submissions to the court or probation officer, at intervals specified by the court . . . reporting on the organization's financial condition and results of business operations, and accounting for the disposition of all funds received"). The Sentencing Guidelines further suggest that, when probation is ordered, it be for not less than a year. U.S.S.G. § 8D1.2(a)(1).

III. Restitution

A. Applicable Legal Principles

Wegelin has agreed to a substantial payment of restitution in this case, rendering restitution appropriate under 18 U.S.C. § 3663(a). See, e.g., 18 U.S.C. § 3663(a)(3) ("court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement").

In addition, because Wegelin has pleaded guilty to a conspiracy charge under Title 18 to an offense against property and an identifiable victim has suffered a pecuniary loss, restitution is mandatory under 18 U.S.C. § 3663A(c)(1). See United States v. Senty-Haugen, 449 F.3d 862, 865 (8th Cir. 2006) (district court properly ordered defendant convicted of conspiracy to defraud the government to pay restitution to IRS); United States v. Kubick, 205 F.3d 1117, 1128-29 (9th Cir. 1999) (mandatory restitution ordered on convictions for conspiracy to commit bankruptcy fraud and conspiracy to impede and impair IRS, each in violation of 18 U.S.C. § 371); United States v. Kerekes, No. 09 Cr. 137 (HB), 2012 WL 3526608 (S.D.N.Y. Aug. 15, 2012) (restitution was mandatory in case of plea to Title 18 conspiracy to defraud the IRS, among other crimes); United States v. Garza, 11 Cr. 3021, 2012 WL 2027025, *5 (W.D. Tex. June 5, 2012); cf. Pasquantino v. United States, 544 U.S. 349, 355-57 (2005) (foreign government's right to collect taxes is "property" within the meaning of wire fraud statute).

In ordering that a defendant pay restitution, a sentencing court need not calculate restitution with precision. Rather, a reasonable estimate of actual loss, based on information available at the time of sentencing, is perfectly appropriate. See United States v. Carboni, 204 F.3d 39, 46 (2d Cir. 2000) ("The district court need not establish the loss with precision but rather 'need only make a reasonable estimate of the loss, given the available information'") (quoting United States v. Jacobs, 117 F.3d 82, 95 (2d Cir.1997)).

It is also appropriate in determining restitution to extrapolate from known losses to unknown losses. See, e.g., United States v. Uddin, 551 F.3d 176, 180-81 (2d Cir. 2009) (in food stamp fraud case, sentencing court was permitted to estimate loss by extrapolating from known data average amount of loss per fraudulent transaction and applying average loss to transactions where exact amount of loss was unknown).

If the issue of restitution were contested, which it is not in this case, the Government would need to prove restitution by a preponderance of the evidence. Id. at 180.

Finally, interest is properly included as restitution. United States v. Qurashi, 634 F.3d 699, 704 (2d Cir. 2011) (holding that "MVRA allows a sentencing court to award prejudgment interest in a criminal restitution order to ensure compensation "in the full amount of each victim's losses"); see also United States v. Fumo, Nos. 09-3388, 09-3389, 09-3390, 2011 WL 3672774, *27-29 (3d Cir. Aug. 23, 2011) (holding that "prejudgment interest is available on orders of

restitution under the [Victim and Witness Protection Act] and MVRA") (collecting cases in Second, Fourth, Fifth, Ninth, Tenth, and Eleventh Circuits and citing Qurashi). The Internal Revenue Code provides that interest must be paid on any tax that is not properly remitted to the IRS on or before the due date of the tax. See 26 U.S.C. § 6601 ("If any amount of tax imposed by this title . . . is not paid on or before the last date prescribed for payment, interest on such amount at the underpayment rate established under section 6621 shall be paid for the period from such last date to the date paid."). The rate of interest is prescribed in Section 6621 of the Code. See 26 U.S.C. § 6621(a)(2) (defining "underpayment rate" as federal short-term rate plus 3%).

B. Discussion

Based on these principles and in order to estimate the loss to the IRS arising out of Wegelin's illegal conduct, the Government looked first to the tax loss that arose from accounts held at Wegelin by U.S. taxpayers who participated in the IRS' voluntary disclosure program. Approximately 245 U.S. taxpayers who had undeclared accounts at Wegelin (out of a total of a maximum of 684 undeclared accounts, according to Wegelin) have participated in the voluntary disclosure program. Those 245 taxpayers paid back taxes and interest of approximately $13.3 million. The $13.3 million does not include penalties.[2]

Using these amounts, the Government sought to estimate the unpaid taxes, the amounts owed by the holders of the approximately 439 accounts that were not revealed to the IRS as part of the voluntary disclosure program.

To do so, the Government extrapolated from the figures of 245 U.S. taxpayers and $13.3 million of back taxes paid to obtain a per-account tax loss of $54,285.[3]

The Government then multiplied the per-account tax loss of $54,285 by the 439 undisclosed accounts to obtain an estimated unpaid tax loss of $23.83 million.[4]

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[2] Typically, participants in voluntary disclosure were required to pay a penalty representing a percentage of the high balance in the undisclosed account. A penalty of up to 50% of the value of the account on the day of the violation is authorized by statute. See generally 31 U.S.C. § 5321 (a)(5)(C)(i)(II). Participants in the various versions of the IRS' voluntary disclosure program have typically paid between 12.5% and 27.5% of the highest aggregate balance in the undisclosed offshore bank accounts during the period covered by the voluntary disclosure.

[3] $13.3 million back taxes ÷ 245 accounts = approximately $54,285 tax loss per account.

[4] 439 accounts not disclosed to the IRS x $54,285 approximate tax loss per account = approximately $23.83 million total tax loss for account not disclosed to the IRS.

After taking into account various factors that could impact the Government's extrapolation, the Government determined that an unpaid tax loss of $20,000,001 is a fair, reasonable, and principled estimation of the unpaid tax loss.

As a check on this estimation, the Government compared this estimation to the figures used in connection with the Department of Justice's resolution with UBS in order to ensure that the tax loss attributable to Wegelin was not disproportionate to the tax loss attributable to UBS, which engaged in substantially similar conduct over a slightly shorter period of time. As part of the resolution with the Department of Justice and the Securities and Exchange Commission, UBS paid $400,000,000 for unpaid taxes. This was based, according to the statement of facts admitted by UBS, on a range of between 11,000 and 14,000 undeclared accounts held at UBS. The $400 million of unpaid taxes was based on 8 years of illegal conduct. Although UBS had many times more undeclared accounts than Wegelin and many times the undeclared AUM that Wegelin did, the Government submits that the data from UBS is a useful point of comparison.

The Government then determined for the undeclared UBS accounts the per-account per-year tax loss. It is between $3,571 and $4,545.[5]

Multiplying those amounts by the maximum number of undeclared accounts at Wegelin (684) and the number of years at issue in the case of Wegelin (10 years, see Indictment ¶ 12), results in total imputed tax loss (paid and unpaid) arising out of Wegelin's illegal conduct of between $24.4 million and $31.09 million.[6]

Similarly, multiplying the UBS per-year tax loss amounts by the number of undeclared accounts at Wegelin where the tax loss was unknown (439) and the 10 years at issue in this case results in total imputed unpaid tax loss of between $15.68 million and $19.95 million.[7]

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[5] $400 million unpaid taxes ÷ 14,000 accounts ÷ 8 years = approximately $3,571 per-account per-year tax loss.

$400 million unpaid taxes ÷ 11,000 accounts ÷ 8 years = approximately $4,545 per-account per-year tax loss.

[6] $3,571 per-account per-year tax loss x 684 accounts not disclosed to IRS x 10 years = $24,425,640 total tax loss.

$4,545 per-account per-year tax loss x 684 accounts not disclosed to IRS x 10 years = $31,087,800 total tax loss.

[7] $3,571 per-account per-year tax loss x 439 accounts not disclosed to IRS x 10 years = $15,676,690 unpaid taxes.

$4,545 per-account per-year tax loss x 439 accounts not disclosed to IRS x 10 years = $19,952,550 unpaid taxes.

After taking into account various factors that could impact the Government's extrapolation from the UBS resolution, analysis of the UBS resolution confirmed the reasonableness of the Government's extrapolation from the Wegelin voluntary disclosure data. Accordingly, the Court should order the payment of $20,000,001 of restitution.

Wegelin has agreed to pay $20,000,001 of restitution within three days of the entry of judgment and, therefore, the Government respectfully requests that the Court order the payment of restitution on the same terms.

IV. Forfeiture

The Government has sought the forfeiture of the gross fees that Wegelin has represented that it received as a result of its illegal conduct from 2002 through 2010: $15.821 million. At the time of the guilty plea, the Court entered a preliminary order of forfeiture and, promptly thereafter, the Government published an appropriate notice concerning the forfeiture. The approximate last day for the filing of claims to these funds is March 5, 2013.

Accordingly, the Government respectfully requests that the Court enter the proposed Final Order of Forfeiture (attached hereto as Exh. E) on or shortly after March 6, 2013.

Should any claims to the funds at issue be filed by the applicable deadline, the Government will, upon receipt, immediately notify the Court.

V. Conclusion

For the reasons set forth above, the Government respectfully submits that the Court should:

(1) impose a fine of $22,050,000, to be paid within three days of the entry of judgment, and impose a short period of probation;

(2) order the defendant to pay $20,000,001 in restitution within three days of the entry of judgment; and

(3) upon expiration of the period for the filing of claims, enter the proposed Final Order of Forfeiture.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: ____/s/_____
Daniel W. Levy/David B. Massey/
Jason H. Cowley
Assistant United States Attorneys
Telephone: (212) 637-1062/2283/2479

Attachments (Exhs. A-E)

cc: Richard M. Strassberg, Esq. (via ECF; w/Exh. A-E)
John Moustakas, Esq.
Goodwin Procter LLP

CERTIFICATE OF SERVICE

I, Daniel W. Levy, declare under penalty of perjury that:

1. I am an Assistant United States Attorney for the Southern District of New York.

2. On February 25, 2013, I caused a true and correct copy of the foregoing GOVERNMENT'S SENTENCING MEMORANDUM, together with the exhibits thereto, to be served by Clerk's Office Notice of Electronic Filing upon the following attorneys, who are filing users in connection with this case:

Richard M. Strassberg, Esq.
John Moustakas, Esq.
Goodwin Procter LLP

Counsel for defendant Wegelin & Co.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 25, 2013
New York, New York

____/s/_____
Daniel W. Levy
Assistant United States Attorney
Telephone: (212) 637-1062

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - - - - - - - - - - - - - - - - -x

UNITED STATES OF AMERICA,	:	INDICTMENT
-v.-	:	S1 12 Cr. 02 (JSR)
WEGELIN & CO., MICHAEL BERLINKA, URS FREI, and ROGER KELLER,	:	
Defendants.	:	

- - - - - - - - - - - - - - - - - - - -x

COUNT ONE
(Conspiracy)

The Grand Jury charges:

The Defendants and Co-Conspirators

1. At all times relevant to this Indictment, WEGELIN & CO. ("WEGELIN"), the defendant, founded in 1741, was Switzerland's oldest bank. WEGELIN provided private banking, asset management, and other services to individuals and entities around the world, including U.S. taxpayers living in the Southern District of New York. WEGELIN provided these services principally through "client advisors" based in its various branches in Switzerland ("Client Advisors"). WEGELIN was principally owned by eight managing partners (the "Managing Partners") and was governed by an executive committee that included the Managing Partners (the "Executive Committee").

WEGELIN had no branches outside Switzerland, but it directly accessed the U.S. banking system through a correspondent account that it held at UBS AG ("UBS") in Stamford, Connecticut (the "Stamford Correspondent Account"). As of in or about December 2010, WEGELIN had 12 branches in Switzerland and approximately $25 billion in assets under management.

2. From at least in or about 2008 up through and including in or about 2010, MICHAEL BERLINKA, the defendant, was a Client Advisor at the Zurich branch of WEGELIN, the defendant (the "Zurich Branch").

3. From at least in or about 2006 up through and including in or about 2010, URS FREI, the defendant, was a Client Advisor at the Zurich Branch of WEGELIN, the defendant.

4. From at least in or about 2007 up through and including in or about 2010, ROGER KELLER, the defendant, was a Client Advisor at the Zurich Branch of WEGELIN, the defendant.

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

team leader, Client Advisor A coordinated certain activities of, but did not supervise, these and other Client Advisors.

6. From in or about 2007 up through and including in or about 2012, Managing Partner A, a co-conspirator not named as a defendant herein, was one of the Managing Partners of WEGELIN, the defendant. From in or about 2005 up through and including in or about 2011, Managing Partner A was the head of WEGELIN'S Zurich Branch. During that period, Managing Partner A supervised MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, Client Advisor A, and other Client Advisors in the Zurich Branch with respect to, among other things, the opening and servicing of "undeclared accounts" for U.S. taxpayers. "Undeclared accounts" are bank and securities accounts owned by U.S. taxpayers whose assets, and the income generated by the assets, were not reported by the U.S. taxpayers to the taxation authority of the United States, the Internal Revenue Service ("IRS").

7. From in or about 2008 up through and including in or about 2011, Executive A, a co-conspirator not named as a defendant herein, was a member of the Executive Committee of WEGELIN, the defendant, and worked primarily at the Zurich Branch.

8. At all times relevant to this Indictment, Beda Singenberger ("Singenberger"), a co-conspirator not named as a defendant herein, was an independent asset manager for various U.S. taxpayers who held undeclared accounts at WEGELIN, the defendant, UBS, Swiss Bank A, and other Swiss banks. Singenberger helped his U.S. taxpayer-clients, WEGELIN, UBS, Swiss Bank A and other Swiss banks hide such accounts, and the income generated therein, by, among other things, selling sham corporations and foundations to U.S. taxpayers as vehicles through which the U.S. taxpayers could hold their undeclared accounts, and by managing the assets held in such accounts. From at least in or about 2002 to in or about 2006, Singenberger regularly traveled to the Southern District of New York and other places in the United States to meet with his U.S. taxpayer-clients with undeclared accounts at WEGELIN, UBS, and other Swiss banks.

9. From in or about the mid-1990s up through and including in or about late 2008, Gian Gisler ("Gisler"), a co-conspirator not named as a defendant herein, was a client advisor at UBS in Switzerland. From in or about early 2009 up through and including in or about mid to late 2009, Gisler was an independent asset manager for U.S. taxpayers holding

undeclared accounts at WEGELIN, the defendant, UBS, and other Swiss banks.

Obligations of United States Taxpayers With Respect to Foreign Financial Accounts

10. At all times relevant to this Indictment, citizens and residents of the United States who had income in any one calendar year in excess of a threshold amount ("U.S. taxpayers") were required to file a U.S. Individual Income Tax Return ("Form 1040"), for that calendar year with the IRS. On Form 1040, U.S. taxpayers were obligated to report their worldwide income, including income earned in foreign bank accounts. In addition, when a U.S. taxpayer completed Schedule B of Form 1040, he or she was required to indicate whether, at any time during the relevant year, the filer had "an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account." If so, the U.S. taxpayer was required to name the country.

11. In addition, U.S. taxpayers who had a financial interest in, or signature or other authority over, a foreign bank account with an aggregate value of more than $10,000 at any time during a given calendar year were required to file with the IRS a Report of Foreign Bank and Financial Accounts, Form TD F

90-22.1 ("FBAR") on or before June 30 of the following year. In general, the FBAR required that the U.S. taxpayer identify the financial institution where the account was held, the type of account, the account number, and the maximum value of the account during the relevant calendar year.

Overview of the Conspiracy

12. From at least in or about 2002 up through and including in or about 2011, more than 100 U.S. taxpayers conspired with, at various times, WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, Managing Partner A, Client Advisor A, other Client Advisors at WEGELIN, Beda Singenberger, Gian Gisler, and others known and unknown, to defraud the United States by concealing from the IRS undeclared accounts owned by U.S. taxpayers at WEGELIN. As of in or about 2010, the total value of undeclared accounts held by U.S. taxpayers at WEGELIN was at least $1.2 billion.

13. Among other things, WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and other Client Advisors opened dozens of new undeclared accounts for U.S. taxpayers in or about 2008 and 2009 after UBS and another large international bank based in Switzerland ("Swiss Bank B") closed their respective businesses servicing undeclared accounts for U.S. taxpayers (the "U.S. cross-border banking businesses") in

the wake of widespread news reports in Switzerland and the United States that the IRS was investigating UBS for helping U.S. taxpayers evade taxes and hide assets in Swiss bank accounts. WEGELIN, BERLINKA, FREI, KELLER, Client Advisor A and other Client Advisors did so after WEGELIN's Executive Committee affirmatively decided to capture for WEGELIN the illegal U.S. cross-border banking business lost by UBS and deliberately set out to open new undeclared accounts for U.S. taxpayer-clients leaving UBS. At or about the time this policy decision was announced to team leaders within WEGELIN, Executive A told the team leaders that WEGELIN was not exposed to the risk of prosecution that UBS faced in the United States because WEGELIN was smaller than UBS, and that WEGELIN could charge high fees to its new U.S. taxpayer-clients because the clients were afraid of criminal prosecution in the United States. As a result of this influx of former UBS U.S. taxpayer-clients into WEGELIN, WEGELIN's undeclared U.S. taxpayer assets under management, and the fees earned by managing those assets, increased substantially.

14. As part of their sales pitch to U.S. taxpayer-clients who were fleeing UBS, at various times, BERLINKA, FREI, KELLER, and other Client Advisors told U.S. taxpayer-clients, in substance, that their undeclared accounts at WEGELIN would not

be disclosed to the United States authorities because WEGELIN had a long tradition of bank secrecy and, unlike UBS, did not have offices outside Switzerland, thereby making WEGELIN less vulnerable to United States law enforcement pressure. Managing Partner A and Executive A participated in some of the meetings where such statements were made to U.S. taxpayers.

15. In furtherance of the conspiracy to defraud the United States, WEGELIN, the defendant, helped certain U.S. taxpayer-clients repatriate undeclared funds to the United States by issuing checks drawn on, and executing wire transfers through, WEGELIN'S Stamford Correspondent Account for the benefit of the U.S. taxpayer-clients. In addition, WEGELIN helped at least two other Swiss banks repatriate undeclared funds to their own U.S. taxpayer-clients by issuing checks drawn on WEGELIN's Stamford Correspondent Account for the benefit of the clients of the two other Swiss banks.

Means and Methods of the Conspiracy

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

a. WEGELIN, BERLINKA, FREI, and KELLER opened and serviced undeclared accounts for U.S. taxpayers -- sometimes in the name of sham corporations and foundations established under

the laws of Panama, Hong Kong, and Liechtenstein -- for the purpose of helping the U.S. taxpayers hide assets and income from the IRS.

b. WEGELIN and FREI knowingly accepted bank documents falsely declaring that such sham entities beneficially owned certain accounts, when WEGELIN and FREI knew that U.S. taxpayers beneficially owned such accounts.

c. WEGELIN, BERLINKA, and FREI opened undeclared accounts for U.S. taxpayers using code names and numbers (so-called "numbered accounts") so that the U.S. taxpayers' names would appear on as few documents as possible in the event that the documents fell into the hands of third parties.

d. WEGELIN, BERLINKA, FREI, and KELLER ensured that account statements and related documents were not mailed to their U.S. taxpayer-clients in the United States.

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

f. At various times from in or about 2005 up through and including in or about 2007, WEGELIN, BERLINKA, FREI, and KELLER communicated by e-mail and/or telephone with U.S. taxpayer-clients who had undeclared accounts at WEGELIN. Client

Advisors sometimes used their personal e-mail accounts to communicate with U.S. taxpayers to reduce the risk of detection by United States law enforcement authorities.

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

h. Various U.S. taxpayer-clients of WEGELIN, BERLINKA, FREI, and KELLER filed Forms 1040 that falsely and fraudulently failed to report the existence of, and the income generated from, their undeclared WEGELIN accounts; evaded substantial income taxes due and owing to the IRS; and failed to file timely FBARs identifying their undeclared accounts.

i. Upon request, WEGELIN issued checks drawn on, and executed wire transfers through, the Stamford Correspondent Account for the benefit of U.S. taxpayers with undeclared accounts at WEGELIN and at least two other Swiss banks. When doing so, WEGELIN sometimes separated the transactions into batches of checks or multiple wire transfers of $10,000 or less

to reduce the risk that the IRS would detect the undeclared accounts.

j. To further conceal the nature of these transactions, WEGELIN comingled the funds transferred in this fashion with millions of dollars of additional funds that WEGELIN moved through the Stamford Correspondent Account.

WEGELIN Solicited New Undeclared Accounts Through a Third-Party Website

17. From in or about 2005 up through and including in or about 2009, WEGELIN, the defendant, solicited new business from U.S. taxpayers wishing to open undeclared accounts in Switzerland by recruiting clients through the website "SwissPrivateBank.com," which was operated by a third party independent of WEGELIN (the "Website Operator"). As of on or about July 2, 2007, this website advertised "Swiss Numbered Bank Account[s]" and "Swiss Anonymous Bank Account[s]." Specifically, the website stated:

> Swiss banking laws are very strict and it is illegal for a banker to reveal the personal details of an account number unless ordered to do so by a judge.
>
> This is long established in Swiss law. Any banker who reveals information about you without your consent risks a custodial sent[e]nce if convicted, with the only exceptions to this rule concerning serious violent crimes.
>
> Swiss banking secrecy is not lifted for tax evasion. The reason for this is because failure to report

> income or assets is not considered a crime under Swiss banking law. As such, neither the Swiss government, nor any other government, can obtain information about your bank account. They must first convince a Swiss judge that you have committed a serious crime punishable by the Swiss Penal Code.

The website invited users to "[r]equest a Swiss banking consultation today" by clicking a link to a "Consultation Request" form that asked for information about a user's country of residence, telephone number, and e-mail address. The Website Operator provided this information to WEGELIN Client Advisors, who then sent e-mails to the United States promoting WEGELIN'S private banking and asset management services. In some cases, Client Advisors sent WEGELIN's promotional materials to U.S. taxpayers in the United States by Federal Express. Through this website, over time, WEGELIN obtained new undeclared accounts holding millions of dollars in total for U.S. taxpayers. Managing Partner A and other managing partners of WEGELIN received quarterly updates on the progress of this advertising program. Managing Partner A approved payments to the Website Operator.

WEGELIN Opens New Undeclared Accounts For U.S. Taxpayers Fleeing UBS

18. In or about May and June 2008, the IRS's criminal investigation of UBS's U.S. cross-border banking business received widespread media coverage in Switzerland and the United

States. At or about that time, many U.S. taxpayers with undeclared accounts at UBS understood that the investigation might result in the disclosure of their identities and UBS account information to the IRS.

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

20. In or about 2008, the Executive Committee of WEGELIN, the defendant, including its Managing Partners, affirmatively decided to capture the illegal U.S. cross-border banking business lost by UBS by opening new undeclared accounts for U.S. taxpayer-clients fleeing UBS. In or about 2008, Managing Partner A announced this decision to Client Advisor A and other team leaders of the Zurich Branch. At or about the time of this announcement, Executive A told the team leaders that WEGELIN was not exposed to the risk of prosecution that UBS faced because WEGELIN was smaller than UBS, and that WEGELIN could charge high

fees to its new U.S. taxpayer-clients because the clients were afraid of criminal prosecution in the United States.

21. At or about that time, Managing Partner A supervised the creation of a list of Client Advisors at the Zurich Branch who were available to meet with potential U.S. taxpayer-clients, many of whom walked into the Zurich Branch of WEGELIN, the defendant, seeking to open new undeclared accounts. Thereafter, in or about 2008 and 2009, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and other Client Advisors met with at least 70 such potential clients. In these meetings, BERLINKA, FREI, KELLER and other Client Advisors interviewed the potential U.S. taxpayer-clients about their backgrounds, the sources of their funds, and the amount of money they wished to transfer from UBS to WEGELIN, among other things. During these meetings, the U.S. taxpayers typically showed their U.S. passports, advised that they were U.S. citizens or legal permanent residents, confirmed that UBS was closing their accounts, and completed certain account opening documents. These documents typically included a standard Swiss banking form called "Form A," which clearly identified the U.S. taxpayers as the beneficial owners of the accounts. In some cases, as described in more detail below, the Client Advisors sought to reassure their new U.S. taxpayer-clients that WEGELIN would not disclose

their identities or account information to the IRS. In many cases, Managing Partner A or Executive A joined these meetings.

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

23. In this manner, WEGELIN, the defendant, opened new undeclared accounts for at least 70 U.S. taxpayers who had fled UBS in or about 2008 and 2009. Most were opened at WEGELIN'S Zurich Branch. When these new undeclared accounts were opened at the Zurich Branch, they were designated with a special code -- "BNQ" -- indicating internally within WEGELIN, among other things, that the accounts were undeclared. At some point in or about 2008 or 2009, the Zurich Branch required that the opening of all new U.S. taxpayer accounts be approved by Managing Partner A or Executive A.

24. From in or about March 2009 up through and including in or about October 2009, pursuant to a special IRS program for U.S. taxpayers with undeclared accounts (the "Offshore Voluntary Disclosure Program"), approximately 14,000 U.S. taxpayers

voluntarily disclosed to the IRS undeclared accounts held at banks around the world, including WEGELIN, the defendant. As part of this process, dozens of U.S. taxpayers obtained copies of their WEGELIN bank records. Some of these records included the names of MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, and other Client Advisors. In response to the expected disclosure of Client Advisors' names to the IRS through the voluntary disclosure program, in or about 2009, Managing Partner A announced to team leaders of the Zurich Branch that Client Advisors' names would no longer appear on certain WEGELIN records. From at least in or about late 2009 up through and including in or about early 2010, Client Advisors' names were replaced by "Team International," or a similar designation, on certain WEGELIN records, so as to reduce the risk that Client Advisors' names would become known to the IRS.

25. In or about mid-2009, the Executive Committee of WEGELIN, the defendant, decided that the bank would stop opening new undeclared accounts for U.S. taxpayers, but that WEGELIN would continue to service its existing undeclared U.S. taxpayer accounts. Nevertheless, in or about late 2009 or early 2010, WEGELIN and MICHAEL BERLINKA, the defendant, and Executive A opened at least three new undeclared accounts for U.S. taxpayers who had fled from Swiss Bank A when it, like UBS and Swiss Bank

B, closed its U.S. cross-border banking business for both new and existing U.S. taxpayer-clients. Each of the three new U.S. taxpayer-clients had at least two passports: one from the United States and one from a second country. In each case, WEGELIN, BERLINKA and Executive A opened the new undeclared account under the passport of the second country, even though WEGELIN, BERLINKA and Executive A well knew that the U.S. taxpayer had a U.S. passport.

26. After the Managing Partners of WEGELIN, the defendant, decided to capture UBS's illegal business for themselves, the total value of undeclared accounts held by U.S. taxpayers at WEGELIN, the defendant, increased substantially over time. As of in or about 2005, WEGELIN, the defendant, hid at least $240 million in undeclared U.S. taxpayer assets from the IRS. By in or about 2010, this amount had risen to at least $1.2 billion.

New Undeclared Accounts Opened by WEGELIN and MICHAEL BERLINKA

27. In or about 2008 and 2009, WEGELIN and MICHAEL BERLINKA, the defendants, opened new undeclared accounts for numerous U.S. taxpayers fleeing UBS, including the following:

Client A

28. At all times relevant to this Indictment, Client A, a co-conspirator not named as a defendant herein, lived with her husband in Boca Raton, Florida. She became a U.S. citizen in

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

29. In or about September 2008, Client A and her husband traveled to Zurich to close her UBS account. By that time, Gisler had left UBS, and Client A had a new UBS client advisor. The new UBS client advisor instructed them not to call from the United States, promised that UBS would not give their information to the IRS, and recommended WEGELIN, the defendant, as a bank at which to hold Client A's account.

30. Also during this trip, Client A and her husband walked to WEGELIN, the defendant, and met with MICHAEL BERLINKA, the defendant. BERLINKA interviewed Client A and her husband about their personal background and the source of their funds, among other things. Client A and her husband told BERLINKA that they

were U.S. citizens, showed their U.S. passports, and said that they wanted to transfer funds from UBS. BERLINKA opened a new account beneficially owned by Client A using the code name "N1641" on or about September 19, 2008. At or about that time, WEGELIN accepted a Form A signed by Client A stating that Client A was the beneficial owner of the account.

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

32. On multiple occasions in or about 2008 and 2009, Client A or her husband called BERLINKA from the United States to notify him that they would be traveling to Aruba. Once in Aruba, Client A or her husband called and/or faxed BERLINKA to request that he send checks to them in the United States. In response, WEGELIN and BERLINKA sent checks drawn on the Stamford Correspondent Account from Switzerland to Client A in Boca Raton, Florida by private letter carrier. WEGELIN issued the checks in the amount of $8,500 to help conceal the undeclared

account from the IRS. WEGELIN also wired funds for the benefit of Client A through the Stamford Correspondent Account to the United States and Aruba. These checks and wire transfers are set forth in the table accompanying paragraph 137 of this Indictment.

33. In or about September 2009, Client A and her husband learned that their names and UBS account information might be provided to the IRS in connection with the August 2009 agreement between Switzerland and the United States to disclose UBS bank records relating to approximately 4,450 U.S. taxpayers (hereinafter, the "August 2009 Agreement"). Alarmed by this news, Client A's husband called BERLINKA from the United States. During this call, BERLINKA advised Client A's husband not to make a voluntary disclosure to the IRS and assured him that their WEGELIN account information would not be provided to the IRS.

34. As of on or about October 8, 2008, Client A's undeclared account at WEGELIN, the defendant, held approximately $2,332,860.

Clients B and C

35. WEGELIN and MICHAEL BERLINKA, the defendants, opened and managed an undeclared account for a married couple, Clients B and C, co-conspirators not named as defendants herein. At all

times relevant to this Indictment, Clients B and C were U.S. citizens and residents of Florida.

36. In or about 2008, UBS notified Clients B and C that they must close their undeclared UBS account, which they had maintained since in or about the late 1990s. Client B asked Gisler, his former UBS client adviser, if he knew anyone at WEGELIN, the defendant, who could help them. Gisler recommended MICHAEL BERLINKA, the defendant, and arranged for Clients B and C to meet BERLINKA at the Zurich Branch in or about October 2008. At that meeting, Clients B and C showed BERLINKA their U.S. passports, provided their U.S. address, and said that they wanted to transfer approximately $900,000 from UBS to WEGELIN. Managing Partner A joined the meeting and further interviewed Clients B and C. Thereafter, Managing Partner A approved the opening of a new undeclared account for Clients B and C.

37. At or about the time this account was opened, WEGELIN, the defendant, accepted a Form A from Clients B and C stating that they resided in Florida and beneficially owned the account. MICHAEL BERLINKA, the defendant, agreed on behalf of WEGELIN that WEGELIN would not send mail to Clients B and C in the United States and that Clients B and C could conduct business with WEGELIN using a code name, "N1677." Because Client B did not want to use his real name when calling WEGELIN from the

United States, BERLINKA set up the account so that Client B could use another code name -- "Elvis" -- when he did so. Thereafter, on one or two occasions, Client B called BERLINKA from the United States to check his account balance, which BERLINKA provided to Client B.

38. On or about December 31, 2008, the undeclared account at WEGELIN, the defendant, owned by Clients B and C held approximately $873,958.

39. The following table further describes Clients A, B, and C and other U.S. taxpayers whose Client Advisor was MICHAEL BERLINKA, the defendant. None of these U.S. taxpayers timely reported their accounts at WEGELIN, the defendant, or the income earned therein, to the IRS on Form 1040 or the FBAR where they were required to do so.

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

New Undeclared Accounts Opened by WEGELIN and URS FREI

40. From in or about 2006 up through and including at least in or about 2010, URS FREI, the defendant, opened and/or serviced dozens of undeclared accounts for U.S. taxpayers at

WEGELIN, the defendant. As of in or about 2006, FREI managed undeclared accounts for approximately 20 U.S. taxpayers holding approximately $40 million in assets. Those figures grew substantially over the next four years. By in or about 2010, FREI managed undeclared accounts for approximately 50 U.S. taxpayers holding approximately $260 million in assets. Within WEGELIN'S Zurich Branch, other Client Advisors frequently sought FREI's advice concerning their undeclared U.S. taxpayer accounts, and some Client Advisors transferred such accounts to him. In or about 2006 and 2007, FREI traveled several times to the United States for U.S. taxpayer-client business. In particular, in or about August and September 2007, FREI traveled to New York, New York, and to San Diego, San Francisco, Marina del Rey, and Santa Monica, California.

41. In or about 2008 and 2009, WEGELIN and URS FREI, the defendants, opened new undeclared accounts for U.S. taxpayers who had fled UBS, including the following:

Clients F and G

42. URS FREI, the defendant, was the Client Advisor at WEGELIN, the defendant, for two undeclared accounts maintained by two brothers ("Clients F and G"), co-conspirators not named as defendants herein, who were, at all times relevant to this Indictment, U.S. citizens and residents of Bayside, New York.

43. In or about August 2008, Clients F and G traveled from New York to Zurich to meet with their client advisor at UBS, where they had owned separate undeclared accounts since in or about the 1960s. The UBS client advisor informed Clients F and G that they must close their UBS accounts, and that other U.S. taxpayers with undeclared accounts were transferring funds to other Swiss banks, including WEGELIN, the defendant.

44. Clients F and G then walked to the Zurich Branch of WEGELIN, the defendant, which was near UBS's Zurich office, and asked to open a new account for each of them. There they met with URS FREI, the defendant. FREI interviewed Clients F and G and inspected their U.S. passports. Clients F and G told FREI that they wanted to transfer assets from UBS to WEGELIN.

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

46. After opening their accounts, FREI gave his business card to Clients F and G and told them to call him if they needed anything. Thereafter, on multiple occasions in or about 2008

and 2009, Clients F and/or G called FREI from the United States and spoke to FREI or one of his assistants about the status and growth of their accounts at WEGELIN, the defendant.

47. In or about October 2009, the undeclared accounts owned by Clients F and G at WEGELIN, the defendant, held approximately $3.4 million and $800,000 respectively.

Clients H and I

48. URS FREI, the defendant, also served as the client advisor at WEGELIN, the defendant, for an undeclared account maintained jointly by Clients H and I, co-conspirators not named as defendants herein. At all times relevant to this Indictment, Clients H and I were U.S. citizens and residents of New Jersey.

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

50. Clients H and I walked to the Zurich Branch of WEGELIN, the defendant, and met with URS FREI, the defendant. FREI told Clients H and I that he handled American accounts for WEGELIN. FREI interviewed Clients H and I about their personal

background and the amount they wished to deposit. Clients H and I showed their U.S. passports to FREI and told him that they wanted to transfer approximately $1 million from UBS to WEGELIN.

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

52. On or about July 14, 2009, the undeclared account owned by Clients H and I at WEGELIN, the defendant, held approximately $1,105,593.

Clients J and K

53. URS FREI, the defendant, also opened an undeclared account at WEGELIN, the defendant, for Clients J and K, a married couple and co-conspirators not named as defendants herein. At all times relevant to this Indictment, Clients J and K were U.S. citizens living in Los Angeles, California.

54. In or about 2008, Clients J and K, who had maintained an undeclared account at UBS and one of its predecessor banks since in or about the 1980s, were advised by their UBS client adviser that they must close their undeclared UBS account. Clients J and K then spoke to an attorney in Los Angeles (the "Los Angeles Attorney"), who advised them to create an offshore entity to hold the account and who referred them to WEGELIN and URS FREI, the defendants. Thereafter, in or about November 2008, at the Los Angeles Attorney's office, Clients J and K completed account opening documents for a new account to be held in the name of White Tower Holdings, LLC, a corporation formed under the laws of Nevis. These documents included: (1) a Form A stating that Clients J and K beneficially owned the White Tower Holdings account; (2) copies of the U.S. passports of Clients J and K; (3) a separate WEGELIN form in which Clients J and K falsely stated that White Tower Holdings was the "beneficial owner of all income from US sources deposited in the above-mentioned portfolio(s), in accordance with US tax law[]"; and (4) even though the account was to be undeclared, Forms W-9 for Clients J and K. A Form W-9 is an IRS form through which U.S. taxpayers can identify themselves as such to a bank, thereby causing the bank to report the U.S. taxpayers' account income to

the IRS each year on Form 1099. The Los Angeles Attorney then sent the signed documents from the United States to WEGELIN.

55. In or about November 2008, Clients J and K traveled to Zurich and Client K met with URS FREI, the defendant, at WEGELIN, the defendant. FREI advised Client K that mail would not be sent to Clients J and K in the United States. FREI also advised that ROGER KELLER, the defendant, would be FREI's secondary contact at the bank in the event that FREI was unavailable. The next day, Clients J and K met with FREI again to discuss the wiring of their funds from UBS to WEGELIN.

56. On or about September 30, 2009, the undeclared account owned by Clients J and K at WEGELIN, the defendant, held approximately $614,408.

Clients L and M

57. URS FREI, the defendant, was also the client advisor for an undeclared account held at WEGELIN, the defendant, by Clients L and M, a married couple and co-conspirators not named as defendants herein. At all times relevant to this Indictment, Clients L and M were U.S. citizens and residents of Florida.

58. In or about December 2008, the UBS client advisor for Clients L and M notified them that they must close their undeclared UBS account, which they had held in the name of an entity called the Magabri Foundation, a sham entity formed under

the laws of Liechtenstein. The UBS client advisor further informed Clients L and M that they could open a new account at **WEGELIN**, the defendant. The UBS client advisor spoke to URS FREI, the defendant, on behalf of Clients L and M and learned that WEGELIN and FREI were willing to open a new account for them in the name of their sham entity, the Magabri Foundation.

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

60. On or about January 12, 2009, WEGELIN and URS FREI, the defendants, opened two new undeclared accounts for Clients L and M in the name of the Magabri Foundation. At or about that time, WEGELIN, the defendant, accepted a Form A declaring that Clients L and M were the beneficial owners of the accounts. Copies of their passports were attached to the Form A. In addition, WEGELIN promised not to send mail to Clients L and M in the United States, and FREI instructed Client L not to call him from the United States. FREI lifted the instruction not to call from the United States in or about November 2009 after

Client L notified FREI that he had voluntarily disclosed the Magabri Foundation accounts to the IRS.

61. On or about December 31, 2009, the undeclared accounts owned by Clients L and M at WEGELIN, the defendant, held approximately $2,729,318.

62. Several of the undeclared U.S. taxpayer-clients of WEGELIN and URS FREI, the defendants, are described in the following table. None of these U.S. taxpayers timely reported their WEGELIN accounts, or the income earned therein, to the IRS on Form 1040 or the FBAR where they were required to do so.

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

New Undeclared Accounts Opened by WEGELIN and ROGER KELLER

63. From in or about 2007 up through and including at least in or about 2010, WEGELIN and ROGER KELLER, the defendants, opened and serviced undeclared accounts for dozens of U.S. taxpayers. By in or about the end of 2008, KELLER

managed undeclared accounts for at least 30 U.S. taxpayers holding approximately $120 million in total.

64. In or about 2008 and 2009, WEGELIN and ROGER KELLER, the defendants, opened new undeclared accounts for U.S. taxpayers leaving UBS, including the following:

Client P

65. ROGER KELLER, the defendant, served as the client advisor for an undeclared account maintained by Client P, a co-conspirator not named as a defendant herein, at WEGELIN, the defendant. At all times relevant to this Indictment, Client P was a U.S. citizen and resident of Maryland.

66. In or about 2008, UBS advised Client P that he must close his undeclared UBS account, which he had maintained since in or about 1970. Because Client P's deteriorating health did not permit him to travel to Switzerland, Client P's son, a co-conspirator not named as a defendant herein, traveled to Zurich in or about November 2008 to close Client P's UBS account and identify another Swiss private bank that would open a new undeclared account for Client P. The UBS client advisor referred Client P's son to WEGELIN, the defendant, and two other Swiss banks.

67. On or about November 3, 2008, Client P's son walked into the Zurich Branch of WEGELIN, the defendant, without an

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

68. On or about the following day, November 4, 2008, ROGER KELLER, the defendant, with the approval of Managing Partner A, opened a new undeclared account in the name of Client P's son. At or about that time, WEGELIN, the defendant, accepted a Form A falsely stating that Client P's son, who lived in Manhattan, was the sole beneficial owner of the account. WEGELIN promised not to send account statements or other mail relating to the account to the United States.

69. On or about September 30, 2009, Client P's undeclared account at WEGELIN, the defendant, held approximately $732,938.

Client Q

70. ROGER KELLER, the defendant, was also the client advisor for an undeclared account owned by Client Q, a co-conspirator not named as a defendant herein, at WEGELIN, the defendant. At all times relevant to this Indictment, Client Q was a U.S. citizen and resident of California.

71. In or about December 2008, Client Q's UBS client advisor informed him that he must close his undeclared UBS

account, which he had owned since in or about 1987. Thereafter, Client Q's previous UBS client advisor told him that WEGELIN, the defendant, was willing to open new undeclared accounts for U.S. taxpayers.

72. In or about January 2009, because Client Q was unable for health reasons to travel to Zurich to close his UBS account, Client Q's son, a co-conspirator not named as a defendant herein, traveled in his place. Client Q's previous UBS client advisor set up an appointment at WEGELIN, the defendant, and accompanied Client Q's son to meet with ROGER KELLER, the defendant, and a Zurich Branch supervisor on or about January 5, 2009. At this initial meeting, KELLER and the supervisor interviewed Client Q's son about his personal background, the source of the funds, and the amount that he wished to deposit, among other things. Client Q's son told KELLER and the supervisor that he was a U.S. citizen and that he wanted to transfer approximately $7 million from UBS to WEGELIN.

73. Later that day, ROGER KELLER, the defendant, advised Client Q's son by telephone that WEGELIN, the defendant, would open an account for him. Client Q's son then returned to the bank and completed various paperwork. At or about that time, KELLER asked Client Q's son whether he wanted to complete an IRS Form W-9, which, if completed, would cause WEGELIN to file a

Form 1099 with the IRS to report the income in Client Q's account in a given year. Client Q's son told KELLER that he did not wish to complete the Form W-9. In addition, KELLER agreed that WEGELIN would not send mail relating to the account to the United States. In the context of a conversation about the demise of UBS's cross-border banking business, and KELLER told Client Q's son that WEGELIN was the oldest bank in Switzerland. KELLER did so to assure him that WEGELIN would not disclose Client Q's identity or account information to the IRS.

74. In or about September 2009, Client Q and his son traveled to Zurich and met with ROGER KELLER, the defendant, and a lawyer representing WEGELIN, the defendant. In the context of a discussion about the August 2009 Agreement that would result in the disclosure of 4,450 UBS account files to the IRS, KELLER and the WEGELIN lawyer assured Client Q and his son that Client Q's account was safe and that their names would not be released to the United States authorities.

75. On or about March 31, 2010, Client Q's undeclared account at WEGELIN, the defendant, held approximately $7,173,679.

76. Client P, Client Q, and other undeclared U.S. taxpayer-clients of WEGELIN and ROGER KELLER, the defendants, are described in the following table. None of these U.S.

taxpayers timely reported their WEGELIN accounts, or the income earned therein, to the IRS on Form 1040 or the FBAR where they were required to do so.

Beneficial Owner(s)	Code Name(s) or Nominee Name(s) in which WEGELIN Account(s) Held	Approx. Dates of UBS Account(s)	Approx. Date WEGELIN Account(s) Opened	Approximate High Value of WEGELIN Accounts
Client P	Client P's Son	1970-2008	2008	$732,938
Client Q	Client Q's Son	1987-2009	1/5/2009	$7,173,679
Clients R & S	Client R's Advisor	1970s	12/19/2008	$3,667,724
Clients T & U	TMT Family Foundation	1981-2008	11/2008	$1,247,649
Total				**$12,821,990**

New Undeclared Accounts Opened by Client Advisor A

77. From in or about 2005 up through and including in or about 2010, Client Advisor A opened and serviced U.S. taxpayer-clients with undeclared accounts at WEGELIN, the defendant, including the following:

Client V

78. For example, Client Advisor A opened and maintained an undeclared account for Client V, a co-conspirator not named as a defendant herein, at WEGELIN, the defendant. Client V was, at all times relevant to this Indictment, a U.S. citizen and resident of Florida.

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

80. On or about April 14, 2009, Client V's client advisor at Swiss Bank B informed Client V that WEGELIN, the defendant, was opening new undeclared accounts for U.S. taxpayers who were fleeing Swiss Bank B. Client V then walked to the Zurich Branch of WEGELIN, the defendant, without an appointment and asked to open an account.

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

82. To establish the "structure," on or about that same day, April 14, 2009, Client Advisor A invited an employee of a Swiss company that provides tax and legal services ("Swiss Trust Advisor A") to meet with Client V. At that meeting, Swiss Trust Advisor A sold to Client V an off-the-shelf sham entity called the Nitro Foundation. Client Advisor A, in turn, opened a new account at WEGELIN, the defendant, for Client V in the name of

the Nitro Foundation. In written materials that Swiss Trust Advisor A provided to WEGELIN, Swiss Trust Advisor A acknowledged that Client V's account would be undeclared. At or about that time, WEGELIN accepted a Form A declaring that Client V, a U.S. citizen and resident of Florida, was the beneficial owner of the Nitro Foundation account. In addition, WEGELIN promised that it would not send mail to Client V in the United States. Thereafter, Client V instructed UBS and the Swiss Bank B to transfer his funds to the Nitro Foundation account at WEGELIN. Based on the advice of Client V's client advisors at UBS and Swiss Bank B, the funds were transferred in Swiss francs so that the transactions would occur entirely in Switzerland, thereby reducing the risk that the IRS would detect the account.

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

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

85. On or about October 15, 2009, Client V's undeclared account at WEGELIN, the defendant, held approximately $4,175,000.

Client W

86. Client Advisor A also opened an undeclared account for Client W, a co-conspirator not named as a defendant herein. Client W was, at all times relevant to this Indictment, a U.S. citizen who lived in California.

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

88. At this meeting, Client Advisor A interviewed Client W about his personal background, the source of his funds, and the history of his UBS account, among other things. Client W told Client Advisor A that he was a U.S. citizen, showed his passport, and said that UBS was closing his account. Client Advisor A told Client W that WEGELIN, the defendant, would not have UBS's problems with the IRS because WEGELIN did not have branches in the United States.

89. On or about December 19, 2008, Client W returned to the Zurich office of WEGELIN, the defendant, met with Client Advisor A, and opened an account in the name of Herzen Resources S.A., a sham Panama corporation that Client W had bought from Swiss Trust Advisor A. At or about that time, WEGELIN accepted a Form A declaring that Client W beneficially owned the Herzen Resources account. In addition, WEGELIN promised not to send mail to Client W in the United States.

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

91. On or about September 30, 2009, Client W's undeclared account at WEGELIN, the defendant, held approximately $8,685,502.

Undeclared WEGELIN Accounts Managed by Independent Asset Managers

92. Separate and apart from the undeclared accounts that WEGELIN, the defendant, opened and managed directly for U.S. taxpayers through its Client Advisors, WEGELIN also acted as a custodian with respect to undeclared accounts that were managed by independent asset managers, including the following:

Kenneth Heller

93. At all times relevant to this Indictment, Kenneth Heller, a co-conspirator not named as a defendant herein, was a U.S. citizen who lived and worked primarily in Manhattan. In or about December 2005 and January 2006, Heller opened an undeclared account at UBS and funded it with approximately $26,420,822 wired from the United States.

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

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

> All Heller money was transferred directly from UBS to Wegelin. . . . The problem is the US Government interference with Swiss Banks, in [an] attempt to

> seize income tax evaders. . . . The US Government gladly pressed its case with Swiss Govt for bank disclosure of US citizens, etc. This is why KH left UBS[.]

96. On or about August 22, 2008, among other occasions, Liechtenstein Asset Manager A faxed to Heller's office in Manhattan account statements and other documents relating to Heller's undeclared account at WEGELIN, the defendant.

97. On or about October 2, 2008, Heller Attorney A faxed instructions from Heller's office in Manhattan to WEGELIN, the defendant, directing WEGELIN to wire approximately $50,000 to a U.S. bank account that HELLER controlled.

98. On various occasions in or about 2008 and 2009, in response to telephone and fax requests from Heller to Liechtenstein Asset Manager A, WEGELIN, the defendant, issued multiple checks drawn on the Stamford Correspondent Account for the benefit of Heller. For example, as set forth in the table accompanying paragraph 137, on or about July 8, 2009, WEGELIN issued approximately 12 checks for Heller's benefit, each in the amount of $2,500. Liechtenstein Asset Manager A sent these checks to Heller in the United States.

99. On or about December 31, 2008, Heller's undeclared account at WEGELIN, the defendant, held approximately $18,466,686.

Clients X and Y

100. Beda Singenberger served as the independent asset manager for numerous U.S. taxpayers holding undeclared accounts at WEGELIN, the defendant, including Clients X and Y, co-conspirators not named as defendants herein. At all times relevant to this Indictment, Clients X and Y, a married couple, were citizens and residents of the United States.

101. On or about April 8, 2002, Singenberger opened an undeclared account at WEGELIN, the defendant, for Clients X and Y in the name of Berry Trust, a sham Liechtenstein foundation. At or about that time, WEGELIN accepted a Form A stating that Clients X and Y beneficially owned the Berry Trust account. At or about that time, WEGELIN accepted another bank form falsely declaring that Berry Trust beneficially owned the Berry Trust account. At the top of this false form, the letters "BNQ" were written to ensure that this account was correctly coded in WEGELIN's computer system as an undeclared account.

102. In or about 2003, Singenberger opened a second account for Client X, at WEGELIN, the defendant, this time in the name of Asset Champion, Ltd., a sham Hong Kong corporation.

103. Thereafter, until in or about 2009, Singenberger managed the assets held by Clients X and Y at WEGELIN, the

defendant. On or about December 31, 2003, the combined value of these undeclared accounts was approximately $6,133,000.

Client Z

104. Singenberger also managed the assets for an undeclared account that Client Z, a co-conspirator not named as a defendant herein, held at WEGELIN, the defendant. At all times relevant to this Indictment, Client Z was a U.S. citizen and resident.

105. On or about October 1, 2004, Singenberger opened an account for Client Z at WEGELIN, the defendant, in the name of Eagle Elite Investments, Ltd., a sham Hong Kong corporation. At or about that time, WEGELIN accepted a Form A stating that Client Z beneficially owned the Eagle Elite Investments account. At or about that time, WEGELIN also accepted another bank form falsely declaring that Eagle Elite Investments beneficially owned the account.

106. In or about 2009, Client Z held approximately $232,435 in his undeclared account at WEGELIN, the defendant.

107. Several U.S. taxpayer-clients whose undeclared accounts at WEGELIN, the defendant, were managed by independent asset managers are described in the following table. These U.S. taxpayers did not timely report their accounts at WEGELIN (or the income earned therein), to the IRS on Form 1040 or the FBAR where they were required to do so.

Beneficial Owner(s)	Code Name(s) or Nominee Name(s) in which WEGELIN Account(s) Held	Approx. Date WEGELIN Account(s) Opened	Approx. High Value of WEGELIN Account(s)
Kenneth Heller	Nathelm Corp.	12/2005	$18,466,686
Clients X & Y	Berry Trust, Asset Champion Ltd	4/10/2002	$6,133,000
Client Z	Eagle Elite Investments Ltd.	10/1/2004	$232,435
Client AA	Levina Trust	4/10/2002	$776,090
Client BB	N 466	2005	$55,496
Client CC & DD	Nema Trust; Grand Dynamic Invest.; Top Harbour Properties	2002; 6/23/2003; 6/6/2005	$4,439,666
Michael Reiss	Floranova Foundation; Upside International	9/11/2003; 11/2008	$2,588,470
Total			

The Repatriation of Undeclared Funds Through the Stamford Correspondent Account

108. From at least in or about 2005 up through and including in or about 2011, WEGELIN, the defendant, used its Stamford Correspondent Account not only to help its own U.S. taxpayer-clients repatriate undeclared funds to the United States without detection by the IRS but also to help U.S. taxpayer-clients of at least two other Swiss banks accomplish the same unlawful ends. For example:

Client EE

109. At all times relevant to this Indictment, Client EE, a co-conspirator not named as a defendant herein, was a resident of New Jersey and a citizen of the United States.

110. In or about 2008, Client EE opened an undeclared account at WEGELIN, the defendant, and funded it through a

transfer from Swiss Bank B, where he had held an undeclared account since in or about the 1980s. Client EE's new undeclared account at WEGELIN was managed by an independent asset manager in Switzerland ("Independent Asset Manager A").

111. In or about 2010, Client EE traveled to Africa for a safari. To pay for the safari, by arrangement with Independent Asset Manager A, Client EE sent a letter with no return address from New Jersey to Independent Asset Manager A in Switzerland. The envelope contained a single piece of paper on which Client EE had written only the amount of money Client EE needed to wire to the safari company, namely, approximately $37,000. At or about that time, Client EE sent a second and separate letter to Independent Asset Manager A containing only the wire transfer details for the safari company's bank account in Botswana. Thereafter, pursuant to these instructions, on or about June 22, 2010, WEGELIN wired approximately $37,000 through the Stamford Correspondent Account to the safari company's bank account in Botswana.

112. In or about December 2009, Client EE's undeclared account at WEGELIN, the defendant, held approximately $847,844.

Client FF

113. At all times relevant to this Indictment, Client FF, a co-conspirator not named as a defendant herein, was a resident of Connecticut and a citizen of the United States.

114. In or about 2006, Client FF inherited funds held in an undeclared account at WEGELIN, the defendant.

115. On various occasions from in or about 2007 up through and including in or about 2011, WEGELIN wired a total of approximately $324,955 in increments less than $10,000 through the Stamford Correspondent Account to Client FF in the United States, as described in the table accompanying paragraph 137.

116. On or about December 31, 2008, Client FF's undeclared account at WEGELIN, the defendant, held approximately $637,395.

Client GG

117. At all times relevant to this Indictment, Client GG, a co-conspirator not named as a defendant herein, was a resident of Westchester County, New York, and a citizen of the United States.

118. In or around 2006, Client GG transferred undeclared funds that he had held at a Swiss bank since in or about the early 1990s to a new undeclared account at WEGELIN, the defendant. The new undeclared account was held in the name of Birkdale Universal, S.A., a sham entity established under the

laws of Panama (the "Birkdale Account"). Client GG's Client Advisor was URS FREI, the defendant. FREI explained to Client GG that the purpose of placing the assets in the name of Birkdale was to further conceal Client GG's ownership of the funds. Later, when Client GG discussed the U.S. government's investigation of UBS with FREI, FREI said that because WEGELIN had no offices outside Switzerland, WEGELIN was less vulnerable to U.S. law enforcement pressure than UBS.

119. In addition, Client GG maintained two "declared accounts" at WEGELIN - that is, accounts that were known to the IRS because Client GG had submitted a Form W-9 to WEGELIN, causing WEGELIN to file a Form 1099 with the IRS each year reporting the income earned in the accounts.

120. In or about August 2007, WEGELIN and URS FREI, the defendants, used the Stamford Correspondent Account to conceal FREI's unlawful hand delivery of approximately $16,000 in U.S. currency to another FREI U.S. taxpayer-client ("FREI's Other Client"). On or about August 8 and August 9, 2007, WEGELIN and FREI used the Stamford Correspondent Account to wire approximately $16,000 in total from one of Client GG's declared WEGELIN accounts to Client GG's U.S. bank account in Westchester County. The $16,000 transfer was divided into two wires of $8,000 on back-to-back days to further conceal the transaction.

Thereafter, at FREI's request, Client GG withdrew approximately $16,000 in U.S. currency from his Westchester County account. On or about August 21, 2007, Client GG carried this $16,000 in cash with him to a lunch meeting in Manhattan with FREI, again at FREI's request. At the lunch, Client GG handed FREI an unmarked envelope containing the $16,000. During the lunch, the head waiter informed FREI that someone else at the restaurant wished to speak with him. FREI then excused himself from Client GG, walked to the other side of the restaurant, and met with FREI's Other Client for approximately 10 minutes. At or about that time, FREI gave the Other Client the cash-filled unmarked envelope that Client GG had given to FREI moments earlier. FREI then returned to Client GG and noted that it was becoming increasingly difficult to move funds out of Switzerland, and that, to do so, he employed this technique of transferring cash directly between his clients. Thereafter, FREI credited approximately $16,000 to Client GG's undeclared account at WEGELIN -- the Birkdale Account.

121. In or about 2010, Client GG's undeclared account at WEGELIN, the defendant, held approximately $898,652.

Client HH

122. At all times relevant to this Indictment, Client HH, a co-conspirator not named as a defendant herein, was a resident of Connecticut and a citizen of the United States.

123. Beginning in or about the 1990s, Client HH maintained an undeclared account at UBS. In or about 2003, Client HH and her Swiss independent asset manager ("Independent Asset Manager B") transferred her UBS funds to an undeclared account at WEGELIN, the defendant.

124. On various occasions from in or about 2003 up through and including in or about 2009, Client HH traveled to Switzerland and withdrew funds from her undeclared account at WEGELIN, the defendant, with the help of Independent Asset Manager B. Independent Asset Manager B advised Client HH not to carry more than $10,000 into the United States at any one time.

125. On various occasions from in or about 2003 up to and including in or about 2009, Independent Asset Manager B met Client HH for dinner in Manhattan. When he did so, he sometimes gave her U.S. currency withdrawn from her undeclared account at WEGELIN, the defendant.

126. On various occasions from in or about 2005 up through and including in or about 2009, WEGELIN, the defendant, issued checks to Client HH drawn on the Stanford Correspondent Account.

As set forth in the table accompanying paragraph 137, WEGELIN issued multiple checks in this manner, each for less than $10,000 to further conceal Client HH's undeclared account, for a total of approximately $79,500.

127. As of December 2007, Client HH's undeclared account at WEGELIN, the defendant, held approximately $177,095.

Client II

128. At all times relevant to this Indictment, Client II, a co-conspirator not named as a defendant herein, was a resident of Arizona and a citizen of the United States.

129. Beginning in or about 2010, Client II maintained an undeclared account at Swiss Bank C.

130. In or about 2010, Client II asked his client advisor at Swiss Bank C ("Swiss Bank C Client Advisor") to send him several batches of checks at regular intervals, three checks at a time, each for less than $5,000, payable to a company that Client II controlled ("Client II's Company"). Client II further requested that the checks "be drawn in the U.S. dollars on your corresponding US bank" and noted that the checks would be cashed over time.

131. Thereafter, from in or about December 2010 up through and including in or about March 2011, WEGELIN, the defendant, issued approximately five checks drawn on the Stamford

Correspondent Account payable to Client II's Company and provided them to the Swiss Bank C Client Advisor, who, in turn, sent them to Client II in Arizona. WEGELIN issued the checks, which are set forth in the table accompanying paragraph 137, in amounts less than $5,000, for a total of $21,088.

132. As of in or about October 2010, Client II's undeclared Swiss Bank C account held approximately $2,183,606.

Client JJ

133. At all times relevant to this Indictment, Client JJ, a co-conspirator not named as a defendant herein, was a resident of Arizona and a citizen of the United States.

134. Beginning in or about the 1990s, Client JJ maintained an undeclared account at Swiss Bank B. In or about late 2009, Swiss Bank B informed him that he had to close his account. He then traveled to Switzerland and opened an undeclared account at Swiss Bank C with the help of the Swiss Bank C Client Advisor.

135. Thereafter, from in or about October 2009 up through and including in or about March 2011, WEGELIN issued five checks drawn on the Stamford Correspondent Account payable to Client JJ, each in the amount of approximately $45,000, as set forth in the table accompanying paragraph 137.

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

137. Certain checks and wire transfers that WEGELIN, the defendant, issued and executed through the Stamford Correspondent Account on behalf of U.S. taxpayers with undeclared accounts at WEGELIN, Swiss Bank C, and Swiss Bank D, for a total of approximately $1,417,626, are listed in the following table. None of these U.S. taxpayers timely reported such accounts, or the income earned therein, to the IRS on Form 1040 or the FBAR where they were required to do so.

Check # (or wire)	Check/ Wire date	Approx. amount	Undeclared U.S. taxpayer	Swiss bank where U.S. taxpayer's account was held
2184	3/10/2005	$ 5,621.00	Client KK	Swiss Bank D
2217	4/20/2005	$ 5,000.00	Client HH	WEGELIN
2252	6/23/2005	$ 9,367.00	Client KK	Swiss Bank D
2331	10/11/2005	$ 7,863.00	Client KK	Swiss Bank D
2399	1/9/2006	$ 32,250.00	Client KK	Swiss Bank D
2423	2/7/2006	$ 26,675.00	Client KK	Swiss Bank D
2448	3/15/2006	$ 7,570.00	Client KK	Swiss Bank D
2490	5/16/2006	$ 8,250.00	Client KK	Swiss Bank D
2547	7/26/2006	$ 2,900.00	Client KK	Swiss Bank D
2591	9/7/2006	$ 8,000.00	Client KK	Swiss Bank D
2634	11/7/2006	$ 9,827.00	Client KK	Swiss Bank D
2635	11/8/2006	$ 5,000.00	Client HH	WEGELIN
2636	11/13/2006	$ 5,000.00	Client HH	WEGELIN
2726	2/8/2007	$ 8,730.00	Client KK	Swiss Bank D
Wire	3/30/2007	$ 8,000.00	Client FF	WEGELIN
2791	4/25/2007	$ 8,200.00	Client KK	Swiss Bank D
Wire	4/27/2007	$ 8,000.00	Client FF	WEGELIN
Wire	8/8/2007	$ 8,000.00	Client GG	WEGELIN
Wire	8/9/2007	$ 8,000.00	Client GG	WEGELIN
3152	11/13/2007	$ 5,000.00	Client HH	WEGELIN
3253	3/13/2008	$ 5,000.00	Client KK	Swiss Bank D
Wire	4/1/2008	$ 2,000.00	Client FF	WEGELIN
Wire	4/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	5/1/2008	$ 2,000.00	Client FF	WEGELIN
Wire	5/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	5/30/2008	$ 2,000.00	Client FF	WEGELIN
3283	5/30/2008	$ 8,500.00	Client HH	WEGELIN
Wire	6/13/2008	$ 4,000.00	Client FF	WEGELIN
Wire	7/1/2008	$ 2,000.00	Client FF	WEGELIN
Wire	7/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	8/1/2008	$ 2,000.00	Client FF	WEGELIN

Check # (or wire)	Check/ Wire date	Approx. amount	Undeclared U.S. taxpayer	Swiss bank where U.S. taxpayer's account was held
Wire	8/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	8/29/2008	$ 2,000.00	Client FF	WEGELIN
Wire	9/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	10/1/2008	$ 2,000.00	Client FF	WEGELIN
Wire	10/31/2008	$ 2,000.00	Client FF	WEGELIN
Wire	11/14/2008	$ 4,000.00	Client FF	WEGELIN
3416	11/25/2008	$ 8,500.00	Client A	WEGELIN
3417	11/25/2008	$ 8,500.00	Client A	WEGELIN
3418	11/25/2008	$ 8,500.00	Client A	WEGELIN
3421	11/28/2008	$ 8,500.00	Client HH	WEGELIN
Wire	12/1/2008	$ 2,000.00	Client FF	WEGELIN
Wire	12/15/2008	$ 4,000.00	Client FF	WEGELIN
Wire	12/31/2008	$ 2,000.00	Client FF	WEGELIN
3468	1/5/2009	$ 8,500.00	Client A	WEGELIN
3469	1/5/2009	$ 8,500.00	Client A	WEGELIN
3470	1/5/2009	$ 8,500.00	Client A	WEGELIN
Wire	1/6/2009	$ 11,000.00	Client A	WEGELIN
Wire	1/15/2009	$ 4,000.00	Client FF	WEGELIN
3483	1/26/2009	$ 8,500.00	Client HH	WEGELIN
Wire	1/30/2009	$ 2,000.00	Client FF	WEGELIN
Wire	2/13/2009	$ 4,000.00	Client FF	WEGELIN
3510	2/26/2009	$ 8,500.00	Client A	WEGELIN
3512	2/26/2009	$ 8,500.00	Client A	WEGELIN
3511	2/26/2009	$ 8,500.00	Client A	WEGELIN
3509	2/26/2009	$ 8,500.00	Client HH	WEGELIN
Wire	2/27/2009	$ 2,000.00	Client FF	WEGELIN
Wire	3/13/2009	$ 4,000.00	Client FF	WEGELIN
3532	3/25/2009	$ 8,500.00	Client HH	WEGELIN
Wire	4/1/2009	$ 2,000.00	Client FF	WEGELIN
Wire	4/15/2009	$ 4,000.00	Client FF	WEGELIN
Wire	4/21/2009	$ 20,000.00	Client A	WEGELIN
3552	4/21/2009	$ 8,500.00	Client A	WEGELIN
3553	4/21/2009	$ 8,500.00	Client A	WEGELIN
3554	4/21/2009	$ 8,500.00	Client A	WEGELIN
3556	4/24/2009	$ 8,500.00	Client HH	WEGELIN
Wire	5/1/2009	$ 2,000.00	Client FF	WEGELIN
Wire	5/15/2009	$ 4,000.00	Client FF	WEGELIN
Wire	5/22/2009	$ 4,000.00	Client FF	WEGELIN
3568	5/25/2009	$ 8,500.00	Client HH	WEGELIN
Wire	6/1/2009	$ 2,000.00	Client FF	WEGELIN
3571	6/8/2009	$ 10,000.00	K. Heller	WEGELIN
Wire	6/11/2009	$ 6,000.00	Client FF	WEGELIN
Wire	6/15/2009	$ 4,665.00	Client FF	WEGELIN
Wire	7/1/2009	$ 3,500.00	Client FF	WEGELIN
3592	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3583	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3587	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3586	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3589	7/8/2009	$ 2,500.00	K. Heller	WEGELIN

Check # (or wire)	Check/ Wire date	Approx. amount	Undeclared U.S. taxpayer	Swiss bank where U.S. taxpayer's account was held
3590	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3588	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3591	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3593	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3595	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3585	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
3584	7/8/2009	$ 2,500.00	K. Heller	WEGELIN
Wire	7/13/2009	$ 24,000.00	Client A	WEGELIN
Wire	7/15/2009	$ 4,665.00	Client FF	WEGELIN
3623	7/16/2009	$ 2,500.00	K. Heller	WEGELIN
Wire	7/20/2009	$ 24,000.00	Client A	WEGELIN
Wire	7/31/2009	$ 3,500.00	Client FF	WEGELIN
Wire	8/14/2009	$ 4,665.00	Client FF	WEGELIN
3660	8/25/2009	$ 5,500.00	Client A	WEGELIN
3659	8/25/2009	$ 8,500.00	Client A	WEGELIN
Wire	9/1/2009	$ 3,500.00	Client FF	WEGELIN
3736	9/11/2009	$ 37,813.97	K. Heller	WEGELIN
Wire	9/15/2009	$ 20,000.00	Client A	WEGELIN
Wire	9/15/2009	$ 4,665.00	Client FF	WEGELIN
3747	9/22/2009	$ 25,000.00	K. Heller	WEGELIN
3746	9/22/2009	$ 50,000.00	K. Heller	WEGELIN
3745	9/22/2009	$ 50,000.00	K. Heller	WEGELIN
3744	9/22/2009	$ 50,000.00	K. Heller	WEGELIN
3750	9/24/2009	$ 16,000.00	K. Heller	WEGELIN
Wire	10/1/2009	$ 3,500.00	Client FF	WEGELIN
3778	10/2/2009	$ 7,250.00	K. Heller	WEGELIN
3779	10/2/2009	$ 500.00	K. Heller	WEGELIN
3794	10/13/2009	$ 2,498.04	K. Heller	WEGELIN
Wire	10/15/2009	$ 4,665.00	Client FF	WEGELIN
3796	10/21/2009	$ 45,000.00	Client JJ	Swiss Bank C
Wire	10/30/2009	$ 3,500.00	Client FF	WEGELIN
Wire	11/13/2009	$ 4,665.00	Client FF	WEGELIN
Wire	12/1/2009	$ 3,500.00	Client FF	WEGELIN
Wire	12/15/2009	$ 4,665.00	Client FF	WEGELIN
Wire	1/4/2010	$ 3,500.00	Client FF	WEGELIN
Wire	1/15/2010	$ 4,665.00	Client FF	WEGELIN
3926	1/22/2010	$ 45,000.00	Client JJ	Swiss Bank C
Wire	2/1/2010	$ 3,500.00	Client FF	WEGELIN
Wire	2/12/2010	$ 4,665.00	Client FF	WEGELIN
Wire	3/1/2010	$ 3,500.00	Client FF	WEGELIN
Wire	3/9/2010	$ 100,000.00	Client A	WEGELIN
Wire	3/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	4/1/2010	$ 3,500.00	Client FF	WEGELIN
4060	4/6/2010	$ 45,000.00	Client JJ	Swiss Bank C
Wire	4/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	4/30/2010	$ 3,500.00	Client FF	WEGELIN
Wire	5/14/2010	$ 4,665.00	Client FF	WEGELIN
Wire	6/1/2010	$ 3,500.00	Client FF	WEGELIN
Wire	6/15/2010	$ 4,665.00	Client FF	WEGELIN

Check # (or wire)	Check/ Wire date	Approx. amount	Undeclared U.S. taxpayer	Swiss bank where U.S. taxpayer's account was held
Wire	6/22/2010	$ 37,000.00	Client EE	WEGELIN
Wire	7/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	8/13/2010	$ 4,665.00	Client FF	WEGELIN
Wire	8/13/2010	$ 7,358.00	Client EE	WEGELIN
Wire	8/18/2010	$ 18,910.00	Client EE	WEGELIN
Wire	9/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	10/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	11/15/2010	$ 4,665.00	Client FF	WEGELIN
4361	12/9/2010	$ 4,833.00	Client II	Swiss Bank C
4363	12/10/2010	$ 4,922.00	Client II	Swiss Bank C
Wire	12/15/2010	$ 4,665.00	Client FF	WEGELIN
Wire	1/14/2011	$ 4,665.00	Client FF	WEGELIN
4411	1/25/2011	$ 45,000.00	Client JJ	Swiss Bank C
4416	1/28/2011	$ 3,600.00	Client II	Swiss Bank C
4417	1/28/2011	$ 2,850.00	Client II	Swiss Bank C
Wire	2/15/2011	$ 4,665.00	Client FF	WEGELIN
Wire	3/15/2011	$ 4,665.00	Client FF	WEGELIN
4483	3/17/2011	$ 4,883.00	Client II	Swiss Bank C
4489	3/23/2011	$ 45,000.00	Client JJ	Swiss Bank C
Wire	4/15/2011	$ 4,665.00	Client FF	WEGELIN
Wire	5/13/2011	$ 4,665.00	Client FF	WEGELIN
Wire	6/15/2011	$ 4,665.00	Client FF	WEGELIN
Wire	7/15/2011	$ 4,665.00	Client FF	WEGELIN
Wire	8/15/2011	$ 4,665.00	Client FF	WEGELIN
TOTAL		**$ 1,417,626.01**		

Statutory Allegations

138. From at least in or about 2002 up through and including in or about 2011, in the Southern District of New York and elsewhere, WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, together with Managing Partner A, Executive A, Client Advisor A, Beda Singenberger, Gian Gisler, Clients A through JJ, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States of America and an agency thereof, to wit, the IRS, and to commit

offenses against the United States, to wit, violations of Title 26, United States Code, Sections 7206(1) and 7201.

139. It was a part and an object of the conspiracy that WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, together with others known and unknown, willfully and knowingly would and did defraud the United States of America and the IRS for the purpose of impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, to wit, federal income taxes.

140. It was further a part and an object of the conspiracy that various U.S. taxpayer-clients of WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, together with others known and unknown, willfully and knowingly would and did make and subscribe returns, statements, and other documents, which contained and were verified by written declarations that they were made under the penalties of perjury, and which these U.S. taxpayer-clients, together with others known and unknown, did not believe to be true and correct as to every material matter, in violation of Title 26, United States Code, Section 7206(1).

141. It was further a part and an object of the conspiracy that WEGELIN, MICHAEL BERLINKA, URS FREI, and ROGER KELLER, the defendants, together with others known and unknown, willfully

and knowingly would and did attempt to evade and defeat a substantial part of the income tax due and owing to the United States by certain of WEGELIN'S U.S. taxpayer clients, in violation of Title 26, United States Code, Section 7201.

Overt Acts

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

a. In or about September 2008, WEGELIN and BERLINKA opened a new undeclared account in the name of Client A.

b. On or about November 25, 2008; January 5, 2009; February 26, 2009; April 21, 2009; and August 25, 2009, WEGELIN and BERLINKA sent multiple checks drawn on the Stamford Correspondent Account to Client A in the United States.

c. On various occasions from in or about 2003 up to and including in or about 2009, Independent Asset Manager B met Client HH for dinner in Manhattan and gave her U.S. currency withdrawn from her undeclared WEGELIN account.

d. On or about August 8 and August 9, 2007, WEGELIN and FREI wired approximately $16,000 in two transactions to Client GG's U.S. bank account in Westchester County.

e. On or about August 21, 2007, at a restaurant in Manhattan, Client GG provided approximately $16,000 in U.S. currency to FREI, who then provided it to FREI's Other Client.

f. On or about November 4, 2008, WEGELIN and KELLER opened a new undeclared account in the name of Client P's son, a resident of Manhattan, for the purpose of helping Client P hide assets and income from the IRS.

g. On or about October 2, 2008, Kenneth Heller caused his employee to send, by fax and U.S. mail, instructions from Manhattan to WEGELIN directing it to wire approximately $50,000 to an account that HELLER controlled in the United States.

h. On various dates from in or about 2006 up through and including in or about 2009, WEGELIN, BERLINKA, FREI, and KELLER sent Federal Express packages relating to WEGELIN's U.S. taxpayer-client business to addresses in the United States, including a Federal Express package from WEGELIN to FREI at a hotel in Manhattan on or about August 14, 2007.

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

FOREPERSON

Preet Bharara

PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

WEGELIN & CO.,
MICHAEL BERLINKA,
URS FREI, and
ROGER KELLER,

Defendants.

INDICTMENT

S1 12 Cr. 02 (JSR)

18 U.S.C. § 371

PREET BHARARA
United States Attorney.

A TRUE BILL

Foreperson.

Exhibit B

JUDGE SWAIN

PREET BHARARA
United States Attorney for the
Southern District of New York
By: JASON H. COWLEY
DANIEL W. LEVY
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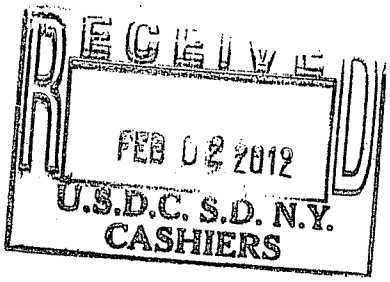

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - -x

UNITED STATES OF AMERICA, :

Plaintiff, :

-v.- : 12 Civ.

ALL FUNDS ON DEPOSIT AT UBS AG, : VERIFIED COMPLAINT
ACCOUNT NO. 101-WA-358967-000,
HELD IN THE NAME OF WEGELIN & CO., :

Defendants *in rem*. :

- - - - - - - - - - - - - - - - - - - -x

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

I. NATURE OF THE ACTION

1. This an action by the United States of America seeking forfeiture of all funds, approximately $16.2 million, on deposit at UBS AG, Account No. 101-WA-358967-000, held in the name of Wegelin & Co. (the "Defendant Funds"). The Defendant Funds are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A), as property involved in transactions in violation of 18 U.S.C. § 1956.

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

II. JURISDICTION AND VENUE

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

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

III. PROBABLE CAUSE FOR FORFEITURE

Background

Wegelin Bank and Its Co-Conspirators

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

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

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

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

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

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

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

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

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

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

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

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

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

Obligations of United States Taxpayers
With Respect to Foreign Financial Accounts

16. At all times relevant to this Indictment, citizens and residents of the United States who had income in any one calendar year in excess of a threshold amount ("U.S. taxpayers") were required to file a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), for that calendar year with the IRS. On Form 1040, U.S. taxpayers were obligated to report their worldwide income, including income earned in foreign bank accounts. In addition, when a U.S. taxpayer completed Schedule B of Form 1040, he or she was required to indicate whether "at any time during [the relevant calendar year]" the filer had "an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or

other financial account," and if so, the U.S. taxpayer was required to name the country.

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

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

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

> Correspondent banking is the provision of banking services by one bank to another bank. It is a lucrative and important segment of the banking industry. It enables banks to conduct business and provide services for their customers in jurisdictions where the banks have no physical presence. For example, a bank that is licensed in a foreign country and has no office in the United States may want to provide certain services in the United States for its customers in order [to] attract or retain the business of important clients with U.S. business activities. Instead of bearing the costs of licensing, staffing and operating its own offices in the United States, the bank might open a correspondent account with an existing U.S. bank. By establishing such a relationship, the foreign bank, called a respondent, and through it, its customers, can receive many or all of the services offered by the U.S. bank, called the correspondent.
>
> Today, banks establish multiple correspondent relationships throughout the world so they may engage in international financial transactions for themselves and their clients in places where they do not have a physical presence. Many of the largest international banks located in the major financial centers of the world serve as correspondents for thousands of other banks. Due to U.S. prominence in international trade and the high demand for U.S. dollars due to their overall stability, most foreign banks that wish to provide international services to their customers have accounts in the United States capable of transacting business in U.S. dollars. Those that lack a physical presence in the U.S. will do so through correspondent accounts, creating a large market for those services.

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

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

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

Handbook, Correspondent Accounts (Foreign) – Overview.

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

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

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

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

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

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

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

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

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

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

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

Means and Methods of the Conspiracy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Wegelin Solicited New Undeclared Accounts Through a Third-Party Website

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

> Swiss banking laws are very strict and it is illegal for a banker to reveal the personal details of an account number unless ordered to do so by a judge.
>
> This is long established in Swiss law. Any banker who reveals information about you without your consent risks a custodial sentance [sic] if convicted, with the only exceptions to this rule concerning serious violent crimes.
>
> Swiss banking secrecy is not lifted for tax evasion. The reason for this is because failure to report income or assets is not considered a crime under Swiss banking law. As such, neither the Swiss government, nor any other government, can obtain information about your bank account. They must first convince a Swiss judge that you have committed a serious crime punishable by the Swiss Penal Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Means and Methods of the International Money Laundering Conspiracy

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

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

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

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

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

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

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

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

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

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

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

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

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

Client A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Kenneth Heller

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

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

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

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

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

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

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

Check No.	Approximate Date of Issue	Approximate Date of Negotiation	Payee	Approximate Amount	Balance in Correspondent Account
3571	6/8/2009	6/15/2009	Heller Associate	$10,000	$69,074,951
3583	7/8/2009	8/18/2009	Heller's Wife	$2,500	$64,536,127
3584	7/8/2009	11/17/2009	Heller's Wife	$2,500	$49,570,987
3585	7/8/2009	11/10/2009	Heller's Wife	$2,500	$104,112,779
3586	7/8/2009	9/9/2009	Heller's Wife	$2,500	$51,658,912
3587	7/8/2009	8/31/2009	Heller's Wife	$2,500	$294,451,642
3588	7/8/2009	10/6/2009	Heller's Wife	$2,500	$53,827,664
3589	7/8/2009	9/22/2009	Heller's Wife	$2,500	$59,943,005
3590	7/8/2009	9/29/0209	Heller's Wife	$2,500	$34,520,342
3591	7/8/2009	10/13/2009	Heller's Wife	$2,500	$81,375,473
3592	7/8/2009	8/10/2009	Heller's Wife	$2,500	$37,431,790
3593	7/8/2009	10/20/2009	Heller's Wife	$2,500	$54,840,187
3595	7/8/2009	10/27/2009	Heller's Wife	$2,500	$88,762,931
3623	7/16/2009	10/5/2009	Heller	$2,500	$81,812,862
3736	9/11/2009	9/18/2009	Heller Associate	$37,814	$90,691,285
3744	9/22/2009	12/23/2009	Heller	$50,000	$36,532,160
3745	9/22/2009	12/7/2009	Heller	$50,000	$50,055,428
3746	9/22/2009	11/3/2009	Heller	$50,000	$44,693,428
3747	9/22/2009	10/7/2009	Heller	$25,000	$46,505,491
3750	9/24/2009	10/5/2009	Heller	$16,000	$81,767,122
Total:				$271,314	

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

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

Client EE

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

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

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

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

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

> Dear Friend
>
> Your 2 letters well received. Everything has been done at [sic] your satisfaction.
>
> Hope to get soon your report about your experience in Africa.
>
> kind rgds [Independent Asset Manager A.]

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

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

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

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

Client FF

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

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

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

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

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

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

Client GG

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

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

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

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

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

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

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

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

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

Client HH

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

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

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

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

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

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

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

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

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

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

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

Client II

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

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

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

> Requests for [Swiss Bank C Client Advisor]:
>
> Please send in batches of three, USD cheques made in favor of [Corporate entity controlled by Client II, hereafter "II Entity"]
> (our subchapter S corporation) as follows:
>
> One month after the inception of the account, $4788, $4908, $4889.
>
> Two months later, $4833, $4805, $4922
>
> Three months later, $3555, $4245, $4010
>
> Three months later. $4909, $4554, $4650
>
> I believe that DHL is your preferred carrier. Is this correct?

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

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

> We have settled on a schedule for checks to be sent.
>
> | | | | |
> |---|---|---|---|
> | September 1 | $4,788 | $4,908 | $4,889 |
> | December 1 | $4,833 | $4,805 | $4,922 |
>
> As we have discussed previously, the checks should be drawn in the U.S. dollars on your corresponding US bank and made in favor of:
>
> [II Entity]
>
> The checks will be cashed over a period of time after receipt, up to four months, *unless* [Swiss Bank C] has a rule precluding holding them open that long [emphasis in original].
>
> [ ]
>
> I expect to send a similar schedule for 2011 towards the end of this year. As usual, please let me know if you have any questions about these arrangements.

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

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

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

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

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

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

Client JJ

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

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

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

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

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

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

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

Client KK

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

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

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

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

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

IV. CLAIM FOR FORFEITURE

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

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

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

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

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

> (2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States-
>
> > (A) with the intent to promote the carrying on of specified unlawful activity;
>
> [shall be guilty of money laundering].

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

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

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

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

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

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

Section 984 of Title 18 of the United States Code

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

> (1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or precious metals--
>
> > (A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and
> >
> > (B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.
>
> (2) Except [for actions to forfeit property pursuant to this section not traceable directly to the offense that is the basis for the forfeiture commenced more than one year from the date of the offense], any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

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

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

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

Dated: New York, New York
February 2, 2012

PREET BHARARA
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Exhibit C

D13TWEGP Plea

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA,

v. 12 CR 02 (JSR)

WEGELIN & COMPANY,

Defendant.

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New York, N.Y.
January 3, 2013
10:40 a.m.

Before:

HON. JED S. RAKOFF,

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
DAVID B. MASSEY
DANIEL W. LEVY
JASON H. COWLEY
Assistant United States Attorneys

GOODWIN PROCTOR
Attorneys for Defendant
RICHARD STRASSBERG
JOHN MOUSTAKAS
KONRAD HUMMLER
STEPHEN WELTI

ALSO PRESENT: LAURA MERCANDETTI, IRS Special Agent
PAUL ROONEY, IRS Special Agent

(In open court)

DEPUTY CLERK: January 3, 2013, 12 CR 02, defendant number four, the will the parties please identify themselves for the record.

MR. MASSEY: Good morning, your Honor, David Massey for the government. With me at counsel table are AUSAs Daniel Levy, Jason Cowley, and IRS Supervisor Special Agent Laura Mercandetti, and IRS Special Agent Paul Rooney.

MR. STRASSBERG: And your Honor, Richard Strassberg and John Moustakas from Goodman Proctor, and we have Mr. Otto Bruderer from Wegelin Bank here as well.

MR. MASSEY: Your Honor, I have notices of appearance, which I could hand up now if it's convenient.

THE COURT: OK. So it's my understanding that the defendant Wegelin wishes to enter a guilty plea to Count One of the indictment, is that right?

MR. STRASSBERG: That is correct, your Honor.

THE COURT: All right. So who is going to be acting for purposes of the allocution as the representative and Wegelin?

MR. STRASSBERG: That would be Mr. Bruderer.

THE COURT: Good morning.

So why don't we place him under oath.

(Defendant sworn)

THE COURT: So please state your full name for the

record.

THE DEFENDANT: Otto Bruderer.

THE COURT: Why don't you come up to the microphone.

THE DEFENDANT: Otto Bruderer, O-T-T-O B-R-U-D-E-R-E-R.

THE COURT: Mr. Bruderer, do you read, write, speak and understand English?

THE DEFENDANT: Yes, I do.

THE COURT: And are you authorized to appear for and bind Wegelin & Company with respect to these proceedings here today?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now my understanding is that you and Wegelin wish to enter a plea of guilty to Count One, isn't that right?

THE DEFENDANT: Yes, that's right, your Honor.

THE COURT: So do you and Wegelin understand that you have a right, if you wish, to plead not guilty and go to trial on the charge against you?

THE DEFENDANT: Yes, we understand, your Honor.

THE COURT: And do you understand and does Wegelin understand that if there were a trial, Wegelin would be presumed innocent, and the government would have to prove its guilt beyond a reasonable doubt before it could be convicted of any crime?

THE DEFENDANT: Yes, your Honor, we understand.

THE COURT: And does Wegelin also understand that they would have the right to be represented throughout these proceedings, including at the trial, by counsel, and that if they could not afford counsel, one would be appointed to represent them free of charge?

THE DEFENDANT: We understand, your Honor.

THE COURT: Does Wegelin also understand that at the trial Wegelin would have the right to see and hear all the witnesses and other evidence against it, and they could cross-examine the government's witnesses, object to the government's evidence, and could call witnesses and produce evidence on their own behalf if they so desired and could have subpoenas issued to compel the attendance of witnesses and documents and other evidence on their behalf? Do they understand all that?

THE DEFENDANT: Yes, we do understand all that, your Honor.

THE COURT: And do they also understand that even if they were convicted, they would have the right to appeal their conviction?

THE DEFENDANT: Yes, we understand.

THE COURT: And finally, do you and Wegelin understand that if a guilty plea is entered, Wegelin would be giving up each and every one of the rights we just discussed? Do you

understand that?

THE DEFENDANT: We understand that, your Honor.

THE COURT: Now the indictment in this case previously filed as S1 12 Criminal 02 is a modest statement of 58 pages. Would you like to have that indictment read here in open court or do you waive the public reading?

MR. STRASSBERG: Your Honor, we waive the reading.

THE COURT: You have gone over -- and this is addressed to both of you, really -- this indictment with all the relevant people at Wegelin?

MR. STRASSBERG: Your Honor, yes, we have.

THE DEFENDANT: Yes.

THE COURT: And let me ask the representative of Wegelin, you and Wegelin understand the charges against you, right?

THE DEFENDANT: We are familiar with the allegation. We understand it, your Honor.

THE COURT: All right. So now the maximum sentence that Wegelin faces if they plead guilty -- let me ask the government what they deem that to be.

MR. MASSEY: Your Honor, we deem that be as follows, assuming Mr. Bruderer allocutes this morning to a loss amount of $20,000,001, the statutory maximum fine would be $40,000,002.

THE COURT: I saw that in your letter agreement, but

of course it would be -- it's twice the gross gain or twice the gross loss, whatever that's determined to be, if it's more than what, 500,000, I think?

MR. MASSEY: Yes. In order to trigger the -- under Southern Union, to trigger the maximum fine to be above 500,000, it's double whatever the defendant allocutes to or what the jury find beyond a reasonable doubt.

THE COURT: All I'm interested in is the statutory maximum.

MR. MASSEY: Well, right now it's 500,000.

THE COURT: No, it's --

MR. MASSEY: It's twice the gross gain or loss.

THE COURT: Thank you.

MR. MASSEY: Which cannot be more than 500,000 at this point.

THE COURT: And what other statutory penalties does the defendant face?

MR. MASSEY: The statutory maximum penalties also include a $100 special assessment, statutory probation maximum of five years, and I believe that's all.

THE COURT: So does Wegelin understand that if they plead guilty they could face punishments up to those maximum amounts, that is to say five years probation, a $100 mandatory special assessment, and most importantly, a fine that would be twice the gross gain or twice the gross loss resulting from

this offense if that figure was more than $500,000?

THE DEFENDANT: Yes, we do, your Honor.

THE COURT: Very good. Now the government and the defendant have entered into a proposed letter agreement. Does counsel have a signed copy of that?

MR. MASSEY: Yes, your Honor.

THE COURT: We will mark this original as Court Exhibit 1 to today's proceeding. And it takes the form of a letter dated December 3rd, 2012 from the government to defense counsel, and it appears, Mr. Bruderer, that you signed it earlier today. Is that right?

THE DEFENDANT: That's correct, your Honor.

THE COURT: And you were authorized to do so on behalf of Wegelin?

THE DEFENDANT: Yes, I am.

THE COURT: Now this letter agreement is binding between you and the government, but it is not binding on me. It's not binding on the Court. Do you understand that?

THE DEFENDANT: We understand, your Honor.

THE COURT: For example, this letter agreement contains various amounts that are said to be the proposed stipulations as to restitution, as to forfeiture, also contains a proposed guideline range. I may agree with that or I may disagree with that. I may think that the penalty should be higher or should be lower, and regardless of where I come out,

if Wegelin pleads guilty, they will be bound by my sentence. Does Wegelin understand that?

THE DEFENDANT: We understand, your Honor.

THE COURT: Now I did have a question or two about this before we continue with the defendant, a question for the government. It says in paragraph 3 on page 1 that Wegelin agrees to pay restitution to the United States in the amount of $20,000,001. Wegelin admits that the restitution amount represents the gross pecuniary loss to the United States as a result of the conduct charged in the superseding indictment and admitted by Wegelin in the allocution.

You're not saying, are you, that that is in fact the exact amount of the gross pecuniary loss to the United States, are you?

MR. MASSEY: Your Honor, we're saying it's a reasonable estimate. It's a negotiated agreement between the victim and the defendant as to what the restitution award should be, and it's a reasonable approximation of the total pecuniary loss to the government.

THE COURT: Well, it looks like it was based on obtaining a particular offense level under the guidelines.

MR. MASSEY: Well, your Honor, it definitely clearly is keyed to the guidelines.

THE COURT: For example, you would not be satisfied if it was $19,999,999.99.

MR. MASSEY: It would fall short, it has to be $20,000,000.01.

THE COURT: So I understand how you got there, I'm just unclear what the basis is for your asserting that this is an estimate of the actual loss.

MR. MASSEY: Well, our basis -- we have numerous grounds to make that a reasonable basis for the loss. The government has access to certain data from the voluntary disclosure program, which is a program in which U.S. taxpayers who had offshore bank accounts have come into the government and paid what they owe. And so we have data about many of those taxpayers. Many of them have accounts at Wegelin. Wegelin has data itself because it has access to the account statements of U.S. taxpayers with accounts there, so it could calculate the amounts of taxes due and owing for the non-compliant U.S. taxpayers.

There are other data points out there, such as there's another agreement, there's a deferred prosecution agreement between the United States and UBS which provides certain information that essentially works as a sort of confirming data point for what we and the defense believe is a reasonable estimate of the loss to the government.

THE COURT: So in connection with sentencing, I have an obligation to make an independent determination of what the loss was. Yes?

MR. MASSEY: Yes, of course, your Honor.

THE COURT: I will need to have some of that data.

MR. MASSEY: Your Honor, we can provide whatever data the Court wishes to have for purposes of sentencing. For purposes of today, Wegelin is prepared to agree that that's the loss amount.

THE COURT: It also says that -- this is on page 2, "Wegelin agrees, pursuant to Title 18, United States Code, Section 981, that it will forfeit $15,821,000 to the United States, representing the gross fees paid to Wegelin from approximately 2002 through 2010 by U.S. taxpayers with undeclared accounts at Wegelin."

How is that figure determined?

MR. MASSEY: That figure was determined through discussions with Wegelin. Wegelin looked at its own data on the gross proceeds paid by U.S. taxpayers to it for the non-compliant business. It gave us the sum total. It broke it out in various ways, but it provided that data to us. And we don't have access to many of the records that we would need to confirm it, but we believe it's reasonable based on a number of data points that we have.

THE COURT: So did you request the data that would confirm it?

MR. MASSEY: We requested that Wegelin provide the data.

THE COURT: What is Wegelin's position on that?

MR. STRASSBERG: I think what Mr. Massey was going to finish to say is they requested that we provide the numbers, which we did provide, your Honor. And that was a calculation of gross receipts, no deductions for costs. It's not a profit number, it's a gross revenue number. And it was deducted by looking at -- it was calculated by looking at all of the revenue and whatever matter was received from the particular accounts at issue during this time period. So that information was provided over to the government frankly some time ago in the context of our ongoing discussions and negotiations with respect to this case.

THE COURT: So let me make sure I understand this. This is the amount of money that the taxpayers who were making use of Wegelin's services for avoiding taxes on undeclared accounts paid to Wegelin. Yes?

MR. STRASSBERG: We framed it, your Honor, that is this is the gross amount of money that anyone who was a U.S. taxpayers who had an undeclared account paid to Wegelin for any purpose. That could be commissions, it could be advisory fees, it could be things that relate to whatever type of business they actually did with respect to their account.

THE COURT: So why would taxpayers want to pay 15, almost 16 million to Wegelin to avoid taxes that were only estimated to be $20,000,001?

MR. STRASSBERG: Your Honor, those fees were not unique to the U.S. taxpayers. So for any customer, be it Swiss, U.S., they would pay fees to the banks as they would for any bank to do the various transactions. These fees, as we understand it, were actually very competitive. If you wanted to put your account at UBS or put your account at Credit Suisse or put your account at Citibank, you would be paying similar types of costs for your securities transactions, for example, or for your other type of transactions that you asked the bank to do. It's really unrelated to taxes other than these account holders themselves were undeclared. So as part of this agreement, we agreed to pay all of that money without any attempt to do deductions and have it be part of this agreement.

THE COURT: Are you saying it should be forfeiture of monies that you think were properly obtained and had no relationship with any unlawful activity?

MR. STRASSBERG: We think, your Honor, that the undeclared accounts themselves is the nature of the conduct that is the subject of the charge and will be the subject of the allocution and the plea, so it's not that it's not connected to unlawful activity.

THE COURT: Well, what did you understand to be the purpose of these undeclared accounts?

MR. STRASSBERG: Well, your Honor, the undeclared accounts allowed the U.S. taxpayers to evade their duty under

U.S. law.

THE COURT: So I come back to my question. Why would the taxpayers pay 16 -- almost 16 million to Wegelin if they weren't going to avoid taxes of a much larger amount?

MR. STRASSBERG: I think you could think of it this way, your Honor, if they had taken their money and kept it here in a United States bank, done the same type of transactions, they likely would have paid much more than 15 million in commissions and costs to that bank to do those transactions. So those monies would have been paid. It wasn't that those monies would have been avoided by having their accounts in a different institution, if that's helpful to your Honor. So those numbers, while they're here in the plea agreement, we agreed to them as part of our negotiating with the government, they are related to this offense.

THE COURT: I hear what you're saying.

All right. Now the stipulated guideline range is all set forth in pages 3 and 4 and 5 of the agreement. This would lead to a guideline fine range of 14.7 million to 29.4 million. And I want to make sure that Wegelin understands that none of that is binding on the Court. Do you understand that?

THE DEFENDANT: Yes, we understand, your Honor.

THE COURT: And more generally, while the Court must have and will consider the guideline range even if the Court agrees with the guideline calculation set forth in this

agreement, which the Court may or may not agree with, but even if it agrees with that, the Court doesn't necessarily have to sentence within the guidelines. I could go higher, I could go lower, and regardless of where I come out, Wegelin would still be bound by my sentence. Do you understand that?

THE DEFENDANT: We understand, your Honor.

THE COURT: Very good. So why don't you tell me, in the accordance with what is a written statement that you wish to read, what it is that makes Wegelin guilty of this offense.

THE DEFENDANT: We have prepared a statement I would like to read.

From 2002 through 2010, Wegelin provided private banking, wealth management and other related financial services to individuals and entities around --

THE COURT: Forgive me for interrupting, why don't you give a copy -- the government should give a copy to the court reporter so he can follow along.

MR. STRASSBERG: And your Honor, for ease of your Honor and for the court reporter, we're starting at the third paragraph of the written allocution after the introductory paragraphs, for ease of all parties involved.

THE COURT: Yes, we already -- why don't you pick up again from, "At all relevant times."

MR. STRASSBERG: Sorry, your Honor, I was talking -- I guess it would be the fourth paragraph, starting with, "From

2002."

THE DEFENDANT: From 2002 through 2010, Wegelin provided private banking, wealth management, and other related financial services to individuals and entities around the world who held accounts at Wegelin, including citizens and residents of the United States. Wegelin provided these services principally through client advisers based in its various offices in Switzerland. Wegelin also acted as custodian with respect to accounts that were managed by independent asset managers, including accounts for U.S. taxpayers.

From about 2002 through about 2010, Wegelin agreed with certain U.S. taxpayers to evade the U.S. tax obligations of these U.S. taxpayer clients who filed false tax returns with the IRS.

In furtherance of its agreement to assist U.S. taxpayers to commit tax evasion in the United States, Wegelin opened and maintained accounts at Wegelin in Switzerland for U.S. taxpayers who did not complete W-9 tax disclosure forms. Wegelin also allowed independent asset managers to open non-W-9 accounts for U.S. taxpayers at Wegelin.

All at relevant times, Wegelin knew that certain U.S. taxpayers were maintaining non-W-9 accounts at Wegelin in order to evade their U.S. tax obligations in violation of U.S. law, and Wegelin knew of the high probability that other U.S. taxpayers who held non-W-9 accounts at Wegelin also did so for

the same unlawful purpose. Wegelin was aware that U.S. taxpayers had a legal duty to report to the IRS and pay taxes on the basis of all of their income, including income earned in accounts that these U.S. taxpayers maintained at Wegelin. Despite being aware of this legal duty, 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.

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.

In the course of the agreement to knowingly and willfully assist U.S. taxpayers in evading their U.S. tax obligations, Wegelin acted through, among others, certain employees who were acting within the scope of their employment and for benefit of Wegelin. Wegelin's conduct allowed Wegelin to increase the number of undeclared U.S. taxpayer accounts and the amount of undeclared U.S. taxpayer assets held at Wegelin, thereby increasing Wegelin's fees and profits.

Wegelin admits that its agreement to assist the U.S. taxpayers in evading their U.S. tax obligations in this matter

resulted in a loss to the Internal Revenue Service that was $20,000,001.

One or more of the U.S. taxpayers who conspired with Wegelin lived in the Southern District of New York when they did so, and had communications by telephone and fax in furtherance of the conspiracy with Wegelin while they were in Manhattan.

THE COURT: So if I understand correctly, what Wegelin is saying is that they knew that the taxpayers who were making use of these services of Wegelin were doing so to evade U.S. taxes. Yes?

THE DEFENDANT: Yes, your Honor.

THE COURT: And Wegelin, knowing that it was wrong and a violation of U.S. law, nevertheless agreed with the taxpayers to help them commit that crime. Yes?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right. Very good.

Is there anything else regarding the factual portion of the allocution that the government wishes the Court to inquire on?

MR. MASSEY: No, your Honor.

THE COURT: Is there anything else regarding any aspect of the allocution that either counsel wishes the Court to inquire about before I ask the defendant to formally enter its plea?

MR. MASSEY: Your Honor, the government would respectfully request that your Honor simply show him the partnership resolution. Your Honor touched on that at the very beginning, but if we could just confirm that is his signature on the partner resolution and he recognizes the signatures of his partners.

THE COURT: Yes, this is Exhibit C to the plea agreement, already marked as part of Court Exhibit 1, and do you have a copy of that in front of you?

MR. STRASSBERG: We do, your Honor.

THE COURT: And are the signatures known to you to be the signatures of the partners of Wegelin?

MR. STRASSBERG: That's my signature and the signatures of the partners, your Honor.

THE COURT: Very good.

Also, one thing I did neglect to mention, do you understand that as part of your agreement with the government, that if the Court does sentence you within the terms of the agreement, Wegelin has given up its right to appeal or otherwise attack the sentence? Do you understand that?

THE DEFENDANT: Yes, we do, your Honor.

THE COURT: Anything else from either counsel?

MR. MASSEY: Your Honor, this may be part of what your Honor is going to get to, but the government respectfully requests that your Honor ask Mr. Bruderer whether he is

satisfied with his counsel's representation, and the plea is knowing and voluntary and the like.

THE COURT: Yes, that's where I was going, but is there anything else before we get there?

MR. MASSEY: No, your Honor.

THE COURT: So Mr. Bruderer, you're represented by Mr. Strassberg in this case. Has he had a full opportunity to discuss this matter not only with you but with the relevant people at Wegelin?

MR. STRASSBERG: Yes.

THE DEFENDANT: Yes, he did, your Honor.

THE COURT: And are you fully satisfied with his representation in this matter?

THE DEFENDANT: We are, your Honor.

THE COURT: And in making its determination to plead guilty, has Wegelin been given any promises whatsoever beyond those set forth in the plea agreement that we marked as Court Exhibit 1?

THE DEFENDANT: No, your Honor.

THE COURT: And by the way, has counsel confirmed that is correct, Mr. Strassberg?

MR. STRASSBERG: Yes, your Honor.

THE COURT: And has anyone else made any kind of promise to Wegelin, anyone outside the government, to induce you to plead guilty in this case?

THE DEFENDANT: No, your Honor.
THE COURT: Has anyone threatened or coerced Wegelin to plead guilty in this case?
THE DEFENDANT: No, your Honor.
THE COURT: Does the government represent if this case were to go through trial, it could, through competent evidence, prove every essential element of this charge beyond a reasonable doubt?
MR. MASSEY: Yes, we do, your Honor.
THE COURT: Does defense counsel know of any valid defense that would prevail at trial or any other reason why his client should not enter this plea?
MR. STRASSBERG: Your Honor, we know of no reason why the plea should not be entered.
THE COURT: All right. Then in light of everything we have now discussed, Mr. Bruderer, how does Wegelin plead to Count One of indictment S1 12 Criminal 02, guilty or not guilty?
THE DEFENDANT: Guilty, your Honor.
THE COURT: And is that plea entered voluntarily and knowingly?
THE DEFENDANT: Yes, your Honor.
THE COURT: All right. Anything else from the government?
MR. MASSEY: Could I have one second, your Honor?

THE COURT: Yes.

The one thing that occurred to me, but I thought it was covered by the plea agreement, is the forfeiture aspect, so I don't know if we need to say anything further in that regard.

MR. MASSEY: It is covered by the agreement. It would probably be helpful if your Honor in open court mentioned it, and that it's there in front of your Honor to sign. There's a preliminary stipulated order of forfeiture for the Court to sign in the amount of $15.8 million and change.

THE COURT: Yes. So Mr. Bruderer, you and your counsel have gone over the stipulated preliminary order of forfeiture that's attached as Exhibit B to your agreement?

THE DEFENDANT: Yes, we did, your Honor.

THE COURT: And you understand that pursuant to that, Wegelin has agreed to transfer $15,821,000 in United States currency to the Treasury?

THE DEFENDANT: Yes, we agreed, your Honor.

THE COURT: So I will sign that order, or do you prefer to wait until the date of sentence?

MR. MASSEY: We prefer that your Honor sign that order today. We will have a final order. There has to be a 30-day period of notice following today.

THE COURT: It is signed. I will give it to my courtroom deputy to docket.

MR. MASSEY: Your Honor, just one more small matter.

Mr. Bruderer gave a very thorough allocution which hit all the elements of the offense. The government doesn't believe it's necessary to enumerate the elements of the conspiracy offense, but there is one aspect of this plea that is slightly unusual in that it is a plea of a corporation. So it may make sense for the government or the Court to put on the record the elements.

THE COURT: There is some authority to that effect, although since the plea covers all the elements at some length, I didn't think it necessary to have the government repeat them. But I can see you're chomping at the bit, so go ahead.

MR. MASSEY: The elements include the following: Wegelin and one or more U.S. taxpayer entered into a conspiracy to violate the United States tax laws. That's the first element. The second is that Wegelin knowingly and voluntarily joined and participated in the conspiracy. The third and the unusual one for this case is that, third, Wegelin did so through managing partners or other employees who were acting within the scope of their employment and acting for the benefit of the partnership, at least in part, and that one or more overt act was committed by Wegelin or a co-conspirator. All of those elements were plainly covered by the allocution of Mr. Bruderer.

THE COURT: OK. Anything else?

MR. MASSEY: Not from the government, your Honor.

Thank you.

THE COURT: Anything from defense counsel?

MR. STRASSBERG: Not from defense counsel.

THE COURT: Because the defendant has acknowledged its guilt as charged, because it has shown through its representative that it understands its rights, because his plea is entered knowingly and voluntarily and supported by an independent basis in fact containing each of the essential elements of offense, I accept his plea and adjudge it guilty of Count One of the indictment S1 12 Criminal 02.

So Mr. Bruderer, the next step in this process is that the probation office will prepare a presentence report to assist me in determining sentence. And in that connection, Wegelin may be asked to provide additional documents, additional information, and I assume that's going to be provided. If there's any problem about that, counsel needs to notify the Court immediately. OK?

MR. STRASSBERG: We will do so, your Honor.

THE COURT: Very good.

After that report is in draft form, before it's in final form, Wegelin and its counsel will have a chance to review it, as will the government, and to offer suggestions, corrections and additions to the probation officer, who will then prepare the report in final to come to me.

Independent of that, counsel for both sides are hereby

given leave to submit to the Court any materials in writing bearing on sentence, and I think in this kind of case that would be very helpful. And as the colloquy earlier indicates, what I am most concerned about is whether the $20,000,001 estimate is a fair estimate and what's the basis for saying that. So you're free to address any and all issues, but that's the issue that I particularly want to see addressed. After those submissions are made, we will then have a full hearing here in court, at which time the Court will impose sentence.

So let's fix a date for that.

MR. STRASSBERG: As your Honor said, we need to set a date that allows for those events to happen. I think from Wegelin's point of view, the faster and more expedited sentence that can be accomplished, we are certainly willing to work within that deadline to make that happen.

THE COURT: I'm all for that. The problem -- and I don't know if anyone has checked with the probation office -- Congress, in its wisdom, has decided that the judicial process of the United States, being not nearly as important as Congress' vacations and the like, should be starved. We are presently something like 22 probation officers short because we had to last year reduce the judicial budget nationwide by ten percent. Congress has decreed that we will this coming year decrease the judicial budget by another ten percent, leading, for example, as early as yesterday, to long-time employees of

the judiciary being severed and left unemployed. One can only marvel at Congress' wisdom, which has been well known to all Americans for some time now.

So to get down to the immediate problem, this is the kind of case that we're going to have to put a senior probation officer on. I just don't know whether they have someone available who can give it expedited treatment. What I am willing to do is put it down now -- the normal sentencing used to be 45 days, then because of the loss of probation officers we had to change it to 60 days. If you want, I will put it down today for 45 days from now and talk with the probation office and see if they can accommodate that. We may have to come back and move it. They may be able to do better. Since the parties are very substantially in agreement and obviously had substantial negotiations, I don't expect there will be any significant disputes, but nevertheless we have to give them as much time as the probation office needs.

So that's my suggestion. Any other thoughts?

MR. STRASSBERG: Your Honor, that suggestion is very agreeable.

DEPUTY CLERK: I want to let you know that the last written statement from probation that I have asks for 120 days for defendants who are not detained. That would bring us to May 6.

THE COURT: I think we can do better than that. I

will tell you what, why don't we take a two-minute break and I'll call the head of probation and see what we can do, and we'll resume in two minutes.

(Recess taken)

THE COURT: All right. Well, after a full and frank discussion with probation, they said that while they are really tremendously short-handed right now, they will make an exception in this case, but they asked for 60 days rather than 45. I think that's reasonable.

They also ask, and I'm going to make this an order, that all the basic materials that need to be provided to probation be provided to them within the next two weeks. That shouldn't be a problem given all that you have done by way of preparation.

So let's see what date that would be for sentence.

DEPUTY CLERK: Sentence date on March 4th, that's a Monday, at 4:00.

THE COURT: March 4th at 4:00, does that work for everyone?

MR. MASSEY: That's fine with the government, your Honor.

MR. STRASSBERG: Your Honor, that's fine for the defense as well.

THE COURT: Very good. So we'll see you on March 4th. Anything else any counsel needs to raise?

MR. STRASSBERG: Your Honor, what time?
THE COURT: 4:00 p.m.
MR. STRASSBERG: Thank you.
THE COURT: Very good. Thanks a lot.
MR. MASSEY: Thank you.

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Exhibit D

In the country where tax evasion is no crime, Swiss private banks are unrepentant about siphoning off other governments' income

Tax gap reporting team
The Guardian, Wednesday 4 February 2009

Critics of Switzerland would say that the country and its banks are running an anti-social enterprise, in effect picking billions of dollars a year out of the pockets of others. It was the spectre of Switzerland that Britain's prime minister, Gordon Brown, sought to raise in parliament yesterday, as he attempted to assure critics that he was doing something positive against tax avoidance.

The Swiss openly assist not merely legal tax avoidance but also the deliberate concealment of wealth for the purpose of evading tax - something regarded as a crime all over the developed world. Swiss authorities have boycotted and even sabotaged efforts to stop this drain of taxable cash. The German finance minister last year called for Switzerland to be officially named and shamed as an unco-operative tax haven.

Swiss bankers themselves estimate that they hold at least 30% of the estimated $11.5 trillion of personal wealth hidden in the world's tax havens. Konrad Hummler, president of the Swiss private bankers' association, has said: "The large majority of foreign investors with money placed in Switzerland evade taxes."

And he remains unapologetic. He acknowledged to the Guardian that Swiss banks siphon off other governments' revenue.

"I admit it is undemocratic," he said. "But I have a feeling that the democratic system went way beyond their legitimate role against the taxpayer. What these states do may be legal, but it is not legitimate."

He singled out Germany, France and Italy as "illegitimate states", whose citizens had no protection from excessive taxes. "We are so allergic to the Germans... because the Germans have the feeling that citizens belong to the state. There is a very old, very deep worry of the Swiss people against the Germans - it goes back to history, especially

the second world war."

He described the Organisation for Economic Co-operation and Development [OECD], which has fought tax havens, as a "tax cartel". He said the Swiss would not willingly compromise banking secrecy or their view that tax evasion was no crime.

However, he added: "There is always a possibility that you can blackmail Switzerland, because we are dependent on good relations with Europe. It would be very unfriendly. Anyway, if we were forced to hand over information, the money would only go away, to another country."

The Swiss do very well out of their activity. Their banks routinely charge fees of 10%, while the regional cantons earn millions by levying a little tax on foreign individuals and companies who would otherwise have to pay a lot of tax in their own countries.

At the legitimate corporate end of the tax spectrum, about 6,000 global companies have now chosen to place activities in Switzerland, according to the official agency, Location Switzerland. There are so many mining companies, particularly from Russia and China, that the canton of Zug has become a trading centre for minerals.

Dun & Bradstreet in Zurich identifies more than 180 UK businesses with holding companies in Swiss cantons. Such entities generally will pay no tax at all on capital gains and very low tax on income. Some will also negotiate individual "tax rulings" in which the canton allows them to cut corners on their tax returns or makes favourable assumptions about their financing.

Local cantons also often offer tax breaks to wealthy foreign individuals and company executives, who are allowed to live there without paying any income tax if they pay the canton a fee, usually five times the rental value of their Swiss home. There are so many of them in villas along the eastern shore of Lake Zurich that it is known as the "Gold Coast".

Switzerland's lucrative tax haven industry is constructed from two laws out of step with other developed governments.

First, whereas most countries will merely sack bank employees who leak information, the Swiss charge them under article 47 of their criminal code and jail them. Second, whereas most countries regard tax evasion as a crime, Switzerland insists that it is no crime at all unless it involves active fraud, such as the forgery of paperwork.

The result is that other countries are constantly trying to breach the walls of the Swiss fortress. Indeed, Switzerland's bank secrecy law was introduced, in 1934, to stop bank staff helping the French tax authorities - and certainly not, as the Swiss sometimes claim, to help Jewish refugees hide their assets from the Nazis.

The Swiss use their law to clamp down on leaks. In January 1997 Christoph Meili, a 28-year-old security man at the biggest commercial bank in Switzerland - Union Banque Suisse (UBS) in Zurich - discovered that the bank was burning the records of Jewish clients who had died in the Holocaust. When he reported this to press and police, he was himself accused of breaching the law and ended up fleeing to the US, where he was granted political asylum.

Swiss authorities have been fighting a running battle with Rudolf Elmer, 53, a former senior employee of the Julius Baer bank who posted internal paperwork on internet

sites which, he claims, reveals tax evasion and money laundering by individuals. Elmer was held in prison for 30 days and told he will be charged for breaking the secrecy laws.

Last year a UBS employee was arrested in the US, pleaded guilty to organising tax fraud and agreed to tell all. Bradley Birkenfeld alleged UBS staff routinely broke laws forbidding foreign bankers to tout for business among wealthy Americans. They travelled to US golf, tennis and yachting events sponsored by UBS, lying on their visa forms about the purpose of their visit, armed with laptops with heavily encrypted files and deploying counter-surveillance techniques for which they were specially trained.

UBS had signed a "qualified intermediary" agreement, undertaking to report any US individual with an account. But Birkenfeld said the bank helped thousands of clients to dodge this by shifting their money into offshore companies. UBS advised clients to destroy evidence of their accounts and - for an extra fee of 500 francs - offered to store their banking correspondence for them in Zurich.

Birkenfeld said UBS had helped 19,000 US taxpayers to shelter $18bn, and encouraged them to buy jewellery or art that they could bring back into the US. He also said he had smuggled diamonds in a tube of toothpaste for a client. A US Senate committee concluded: "The top management of UBS in Switzerland was well aware of the bank's practice of maintaining undeclared accounts for US clients."

The Swiss have fought off every attempt to make them change . They belong to the OECD but refuse to sign any tax information exchange agreement of the kind that the OECD now supports. They trade with the European Union but they have refused to sign up to the EU savings directive, which asks for the account details of all European residents to be passed to their respective tax authorities. Following their refusal, other nations, particularly Austria and Luxemburg, have also boycotted the OECD and EU initiatives.

As a compromise with the EU, these "boycott nations" have agreed to collect tax on EU residents' accounts, deduct a fee for their hard work and pass on the balance to the correct tax authorities. However, since the directive applies only to individuals , there is anxiety in Brussels that, behind the scenes, banks have been repeating the manoeuvre that UBS used to defeat the Americans, simply converting individuals into offshore companies.

After last year's scandal, the Americans applied intense pressure to UBS to hand over the details of the 19,000 undeclared US accounts.

Rather than possibly lose its licence to do business in the US, the bank was willing to surrender - but the Swiss finance ministry intervened to ensure that if files were handed over, it would be on the fictional basis that it was evidence of fraud, thus preserving the officlal Swiss stance that they will not co-operate with other nations on mere tax evasion. Gordon Brown claimed yesterday that the Swiss might reform in the wake of the latest UBS scandal. But it hasn't happened yet.

How Switzerland sells itself

"Location Switzerland" is the Swiss government agency that markets the advantages of "restructuring".

"Taxes: Why pay more?" is how its handbook for foreign companies puts it. The Swiss

corporate tax rate for foreign trading companies is about 7-8% compared with 28-30% in the UK.

Location Switzerland point to the commercial reasons for "restructuring" too - economies and efficiencies from centralised buying, ordering and selling.

But the reason to do it in Switzerland is to save tax, as the big accountancy firms who market the concept are quick to point out. They call it TESCM - "tax-efficient supply chain management". Ernst&Young were among the first, advertising that centralisation could "result in a 40% increase in earnings, but 40% of this [increase in earnings] would go to the tax man ... But when the two were integrated, net profit improvement soared ..."

One consultant, Bill Bronsky, explained in a trade paper in 2006: "This is the multimillion pound opportunity. Using the TESCM model companies have been able to move from effective tax rates of 35% to a rate of less than 15% after estructuring. There are well over 100 companies (many in the FTSE 100) that have significantly restructured their business operations to optimise their tax position."

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Exhibit E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	FINAL ORDER OF FORFEITURE
- v. -	S1 12 Cr. 2 (JSR)
WEGELIN & CO.,	
Defendant.	

WHEREAS, on or about February 2, 2012, WEGELIN & CO. ("WEGELIN" or the "Defendant"), was charged in a one-count Superseding Indictment, S1 12 Cr. 2 (JSR) (the "Indictment"), with conspiring with U.S. taxpayers to defraud the Internal Revenue Service, file false federal income tax returns, and evade federal income taxes, and with committing certain overt acts in furtherance of the conspiracy, in violation of Title 18, United States Code, Section 371;

WHEREAS, on or about January 3, 2013, the Defendant pled guilty to the Indictment pursuant to a plea agreement dated December 3, 2012 (the "WEGELIN Plea Agreement");

WHEREAS, pursuant to the WEGELIN Plea Agreement, WEGELIN agreed to the forfeiture of $15,821,000 in United States Currency (the "Defendant Funds"), representing WEGELIN's gross proceeds from approximately 2002 through 2010 of its scheme to defraud the United States as set forth in the Indictment;

WHEREAS, pursuant to the WEGELIN Plea Agreement, Wegelin agreed to transfer the Defendant Funds to a seized assets

deposit account maintained by the United States Department of Treasury;

WHEREAS, on or about January 3, 2013, the Court entered a Stipulated Preliminary Order of Forfeiture (the "Preliminary Order of Forfeiture") (Docket Entry 16), forfeiting to the United States of all of WEGELIN's right, title and interest in the Defendant Funds;

WHEREAS, the Preliminary Order of Forfeiture directed the United States to publish, for at least thirty (30) consecutive days, notice of the Preliminary Order of Forfeiture, of the United States' intent to dispose of the Defendant Funds and the requirement that any person asserting a legal interest in the Defendant Funds must file a petition within sixty (60) days from the first day of publication of the notice on an official government internet site;

WHEREAS, notice of the Preliminary Order of Forfeiture and the intent of the United States to dispose of the Defendant Funds was published on www.forfeiture.gov, the official United States government internet site, beginning on January 5, 2013 and for thirty (30) consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, and proof of publication (Docket Entry 21) was filed on February 25, 2013;

WHEREAS, WEGELIN is the only entity known by the Government to have a potential interest in the Defendant Funds; and

WHEREAS, thirty (30) days have expired since final publication of notice and no petitions to contest the forfeiture of the Defendant Funds have been filed;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title and interest in the Defendant Funds is hereby forfeited and vested in the United States of America, and the United States of America shall and is hereby deemed to have clear title to the Defendant Funds.

2. The Department of Treasury (or its designee) shall dispose of the Defendant Funds according to law.

3. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Jason H. Cowley, One St. Andrew's Plaza, New York, New York 10007.

Dated: New York, New York
March ____, 2013

SO ORDERED:

_____
THE HONORABLE JED S. RAKOFF
UNITED STATES DISTRICT JUDGE