

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 19-60359-CR-ALTMAN/HUNT
18 U.S.C. § 371**

UNITED STATES OF AMERICA

v.

HSBC PRIVATE BANK (SUISSE) SA,

Defendant.

STATEMENT OF FACTS

I. BACKGROUND

1. HSBC Private Bank (Suisse) SA (“HSBC Switzerland”) is incorporated and domiciled in Switzerland, with its headquarters in Geneva. HSBC Switzerland is an operating bank subsidiary of HSBC Private Bank Holdings (Suisse) SA, a Swiss-based holding company.¹ At all relevant times, HSBC Switzerland had its own Board of Directors, Chief Executive Officer, Management Executive Committee, and Legal and Compliance functions.

2. HSBC Switzerland was incorporated in 2001. It is the product of a series of acquisitions and mergers. In 1999, HSBC acquired Republic National Bank of New York (“Republic Bank”) and Safra Republic Holdings SA. In 2009, HSBC Switzerland merged with HSBC Gyuertzeller Bank Ltd. (“HSBC Gyuertzeller”).

3. HSBC Gyuertzeller was a Swiss private bank that was wholly owned by HSBC Private Bank Holdings (Suisse) SA. HSBC acquired a majority share of HSBC Gyuertzeller in 1992 as part of its acquisition of Midland Bank, a U.K.-based bank that owned HSBC Gyuertzeller. In 2002, HSBC integrated HSBC Gyuertzeller with Credit Commercial de France (Suisse) SA and Handelsfinanz-CCF Bank, the private Swiss bank businesses of Crédit Commercial de France, which HSBC had acquired in 2000. HSBC Gyuertzeller maintained a head office in Zurich, and branches in Geneva and Lugano, as well as representative offices in Hong Kong and Istanbul. Prior to the 2009 merger, HSBC Gyuertzeller operated separately from HSBC Switzerland.

4. Throughout this statement of facts, HSBC Switzerland is used to refer to the current HSBC Switzerland and any of its predecessor entities. When relevant, the names of specific predecessor banks are used.

5. HSBC Switzerland provided private banking and asset management services to individuals and entities resident both inside and outside of Switzerland, including U.S. persons. HSBC Switzerland provided these services through relationship managers (“Bankers”) and other

¹ HSBC Switzerland is indirectly owned by HSBC Holdings plc, a U.K.-based holding company (“HSBC”).

client advisors based in Geneva, Lugano, and Zurich. It also acted as a custodian of assets managed by third-party investment advisers and trustees.

6. Since 2006, HSBC Switzerland provided fiduciary services through HSBC Guyerzeller Trust Company AG² and its subsidiaries, which created trusts and nominee entities to hold accounts for the owners. Prior to 2006, HSBC Switzerland provided trust services through HSBC Trust Company AG, a wholly owned subsidiary of HSBC Switzerland, and HSBC Guyerzeller provided similar services through an in-house function and wholly owned corporate services companies. Other wholly owned companies provided directors to manage these entities for the benefit of and at the direction of the owners.

7. HSBC operated an affinity-marketing program referred to as the Global South Asian Diaspora (“GSAD”) until 2012. From 1999 to 2012, the head of GSAD was an employee of HSBC’s U.K. private bank and later detailed to HSBC Switzerland. Employees detailed to GSAD sought to recruit wealthy South Asian clients residing around the world to bank at HSBC or to expand their existing banking at HSBC-owned entities. Part of the GSAD program involved actively marketing onshore services in the United States. A few executives and employees assigned to GSAD encouraged U.S. persons to open and maintain bank accounts in Switzerland.

II. U.S. INCOME AND TAX REPORTING OBLIGATIONS

8. U.S. citizens, resident aliens, and legal permanent residents (“U.S. persons”) are obligated to report all income earned worldwide, including from foreign bank accounts, on their tax returns and to pay the taxes due on that income. Since 1976, U.S. persons have been obligated to report to the Internal Revenue Service (“IRS”) on a Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether they had a financial interest in, or signature or other authority over, a financial account in a foreign country in a particular year and to identify the country where the account was maintained.

9. Since 1970, U.S. persons who had a financial interest in, or signature or other authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year, have been required to file a Report of Foreign Bank and Financial Accounts, FinCEN Form 114, formerly known as Form TD F 90-22.1, (the “FBAR”) with the Department of the Treasury. The FBAR for the applicable year during the relevant period here was due on June 30 of the following year.

10. An “undeclared account” is a financial account beneficially owned by an individual subject to U.S. tax obligations and maintained in a foreign country, which the individual did not report to the U.S. government on an income tax return and an FBAR.

11. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. Swiss law prohibits the disclosure of identifying information without client authorization, except in certain limited circumstances. Because of the secrecy

² HSBC Switzerland is now in the process of closing its trust company, which has been wholly owned by HSBC Switzerland since the merger of HSBC Switzerland and HSBC Guyerzeller. At this time, the trust company is called HSBC Trust Company AG.

guarantee that Swiss bank secrecy laws created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.

III. OVERVIEW

12. From at least 2000 to 2010, HSBC Switzerland aided and assisted U.S. persons in evading their U.S. tax obligations, filing false tax returns with the IRS, and concealing their offshore assets and income from U.S. authorities. HSBC Switzerland did so by opening and maintaining undeclared accounts for U.S. persons, by allowing third-party asset managers to manage undeclared accounts for U.S. persons, and by taking other actions to facilitate U.S. persons in concealing their assets and income and evading taxes. HSBC Switzerland knew that U.S. persons were maintaining undeclared accounts in violation of U.S. law. Many of these clients resided in the United States, including in the Southern District of Florida.

13. In 2002, HSBC Switzerland maintained approximately 720 U.S.-person relationships with approximately \$825 million in Assets Under Management (“AUM”) for clients that were not declared (hereinafter “undeclared U.S.-person relationships”).³ Although the number of undeclared U.S.-person relationships declined in the following years, the AUM increased, reaching a peak of \$1.26 billion in 2007, as described below.

Year	Number of Undeclared U.S.-Person Relationships at Year-End	Year-end AUM (in USD \$ Millions)
2002	720	825
2003	700	985
2004	660	980
2005	600	930
2006	560	1035
2007	550	1260
2008	540	910
2009	375	745
2010	265	615

³ Undeclared U.S.-person relationships, which are relationships in which the Bank did not have evidence of declared status, comprised less than 2.0% of the HSBC Switzerland’s total AUM during the 2002-to-2010 period. Many of the U.S.-person client relationships open in 2002 were inherited through the acquisitions. Other clients became U.S. persons after they opened their relationship by, for example, moving to the United States. If a relationship was open during the relevant period and became U.S. related after it was opened, it is included as a U.S.-person relationship and reflected in the chart for any year that it was open. HSBC Switzerland also banked declared U.S.-person relationships. Relationships with an account associated with an IRS Form 1099 or an identified, and timely-filed, FBAR are treated as declared U.S.-person relationships.

14. U.S.-person accounts included individual accounts that were held in the names of the U.S. persons, sometimes with numerical or coded names. In code-name or numbered accounts, the bank used a code name or number on the customer's account and on any documentation that the customer received from the bank in lieu of referring to the U.S. client by name. These accounts also included accounts where U.S. persons controlled or owned the account through a nominee, including as settlors of trusts or foundations, beneficiaries of those trusts, or the beneficial owner of accounts held in the names of corporations, which were often established in offshore tax-haven jurisdictions with strict secrecy laws.

15. HSBC Switzerland conducted business with U.S. persons through Bankers and client advisors. At least twenty Bankers traveled to the United States during the 2000s and met with undeclared and declared clients, including meeting clients in the Southern District of Florida. Other times, clients traveled to Switzerland and met with Bankers and client advisors about their accounts.

IV. OFFENSE CONDUCT

A. HSBC Switzerland Aided and Assisted U.S. Persons in Concealing Assets and Income

16. HSBC Switzerland provided a variety of traditional Swiss banking services that aided its U.S. clients to help conceal their assets and income from U.S. authorities. HSBC Switzerland Bankers advised clients that they could use HSBC Switzerland's services to conceal income and assets from the U.S. government. The most significant services are set forth below, and some are described in more detail in the sections that follow.

- a. HSBC Switzerland Bankers on occasion advised clients not to return to the United States carrying more than \$10,000 in currency or other monetary instruments to avoid filing Reports of International Transportation of Currency or Monetary Instruments, which might lead U.S. authorities to investigate the source of the funds being transported.
- b. HSBC Switzerland Bankers assisted U.S. clients in structuring withdrawals from their undeclared accounts via wire transfers in amounts less than \$10,000 in an attempt to conceal the transactions, and their undeclared Swiss accounts, from U.S. authorities.
- c. HSBC Switzerland Bankers assisted U.S. clients to access funds held in their undeclared accounts by providing clients with credit, debit, or travel cards linked to their undeclared accounts. Clients instructed the bank by telephone, mail, or email to load Swiss francs, U.S. dollars, or Euros onto these cards from the client's account at the bank. The clients used the cards for purchases and remitted the unused balances back to their accounts. Bankers cautioned at least a few clients not to use the cards in the United States. Some types of cards did not have the bank or the U.S. client's name on them, and allowed U.S. clients to withdraw funds remotely or pay for goods and services without a clear paper trail back to their undeclared accounts in Switzerland.

- d. HSBC Switzerland Bankers issued checks drawn on HSBC Switzerland's correspondent accounts, including at HSBC Bank USA, in the United States for U.S. clients. These checks, which were essentially cashier checks, included the name of HSBC Switzerland, but not the client's name or the name of the client's bank account, and were routinely provided to clients. U.S. clients used these checks to obscure the money's origin because such checks could be deposited without disclosing the name or ownership of the Swiss bank account.
- e. HSBC Switzerland Bankers discouraged U.S. clients from receiving mail, including bank statements, at their homes in the United States. Instead, the bank held all mail correspondence for those U.S. clients, making their undeclared accounts less likely to come to the attention of the IRS. Multiple reports made by HSBC Switzerland Bankers following trips to the United States to meet with existing or prospective clients revealed that HSBC Switzerland Bankers frequently advised clients to sign "hold-mail" agreements with the bank in order to avoid detection of their accounts.
- f. HSBC Switzerland Bankers advised U.S. clients not to transport account documentation from Switzerland back to the United States. Further, HSBC Switzerland Bankers told their U.S. clients to refrain from phoning the bank from the United States and to place phone calls to their Bankers from locations outside the United States.

B. HSBC Switzerland Created and Managed Nominee Entities for U.S. Persons to Help Them Hide Assets and Income

17. HSBC Switzerland Bankers advised U.S. persons to open and maintain bank accounts in the names of nominee companies and trusts. These nominee trusts and companies did not serve any business purpose, but were instead used to conceal the U.S. person's beneficial ownership of the accounts. By using a trust or corporation, it would appear that those entities, and not the U.S. person, owned and controlled the assets and income of the account.

18. HSBC Switzerland utilized in-house trust companies or functions—including HSBC Guyerzeller Trust and its predecessors—to create nominee trusts and corporate entities for clients. HSBC Guyerzeller Trust and other trust services affiliated with HSBC Switzerland created these nominee entities in offshore tax-haven jurisdictions, such as the British Virgin Islands, Liechtenstein, and Panama.

19. HSBC Switzerland used wholly owned or affiliated companies, including Cordico Management AG, to provide individuals from those tax-haven countries to serve as trustees or directors of the nominee entities. These trustees and directors employed by HSBC Switzerland's wholly owned or affiliated companies exercised little to no independence. Rather, they managed the accounts at HSBC Switzerland at the direction of the U.S. persons who beneficially owned the assets in the accounts.

20. Even in circumstances where HSBC Switzerland did not utilize an in-house company to either create or manage the nominee entities, HSBC Switzerland knew that U.S. persons were the true beneficial owners of the assets in the accounts held in the names of trusts and corporate entities. HSBC Switzerland Bankers knowingly accepted IRS Forms W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individual)), or HSBC Switzerland's substitute forms, provided by the directors of nominee companies and trustees of the trusts who falsely represented under penalty of perjury that the companies and trusts, and not the U.S. persons, were the beneficial owners of the assets for tax reporting purposes.

C. The Qualified Intermediary Agreement

21. In 2001, HSBC Switzerland entered into a Qualified Intermediary Agreement ("QI Agreement") with the IRS. Agreements under the Qualified Intermediary regime provided a framework for U.S. information reporting and tax withholding by a non-U.S. financial institution with respect to U.S. securities. The QI Agreements were intended to ensure that, with respect to U.S. securities held in an account at the bank, non-U.S. persons were subject to the proper U.S. withholding tax rates and that U.S. persons holding U.S. securities were properly paying U.S. tax. QI Agreements, however, were also limited in scope and did not address non-U.S. securities and did not replace or supplant U.S. tax, securities, and criminal laws that also applied to a bank's conduct.

22. The QI Agreement took account of the fact that Swiss law prohibited HSBC Switzerland, like other Swiss banks, from disclosing the identity of an account holder. In general, if an account holder wanted to trade in U.S. securities and avoid mandatory U.S. tax withholding, the agreement required HSBC Switzerland to obtain the consent of the account holder to disclose the client's identity to the IRS. The QI Agreement required HSBC Switzerland to obtain IRS Forms W-9 and to undertake IRS Form 1099 reporting for new and existing U.S. clients engaged in U.S. securities transactions.

23. In an effort to avoid the QI Agreement's reporting requirements, some HSBC Switzerland Bankers encouraged their U.S. clients to create and open accounts in the names of offshore entities. Consistent with all other Swiss-located banks, HSBC Switzerland treated these foreign nominee entities as the owners of the assets, despite the beneficial owners being identified on Forms A and similar documents maintained by the bank. HSBC Switzerland did not report the U.S. persons' ownership of these accounts to the IRS. In some instances, Bankers knowingly accepted false information from account holders, settlors, and beneficial owners regarding their citizenship or residence.

24. After acquiring Republic Bank in 1999, the predecessor of HSBC Switzerland—but not HSBC Gyuertzeller—continued Republic Bank's policy requiring U.S. clients to sign a U.S. Bank Secrecy waiver. Despite obtaining waivers from a number of U.S. clients, HSBC Switzerland did not use these waivers to report U.S.-person accounts or income earned on the accounts to the IRS. HSBC Switzerland did not change its stance towards U.S. tax compliance or consistently reject clients who refused to sign a waiver.

25. In 2004, HSBC Guyerzeller sought to reduce its exposure to the U.S. market. It decided to stop opening new relationships for U.S.-resident clients, to close accounts with AUM less than \$750,000, and to require new clients to sign a U.S. Bank Secrecy waiver, which HSBC Switzerland already required. HSBC Guyerzeller did not, however, change its stance towards tax compliance. In order to appear to distance itself from the tax evasion scheme, the bank adopted a new policy regarding the management of nominee trusts and other entities. That policy required the bank to shift management of approximately 20 entities connected to a few relationships from its in-house service providers to outside providers. As noted in the minutes of a managing committee meeting, the new policy required that third parties manage structures that were “not tax compliant (*i.e.*, the funds are not reported to the IRS).” Even though the bank knew that those U.S. clients were evading their taxes, it did not close the accounts.

26. The new policy required an outside provider to manage the entities and accounts used by U.S. persons to evade their taxes. However, for a few relationships, HSBC Guyerzeller recommended an individual (“Fiduciary 1”), who had been an employee of HSBC Guyerzeller in the 1990s and owned and operated companies that provided fiduciary and asset management services, to manage the entities.

D. HSBC Switzerland Created a North American Desk to Service Accounts for U.S. Persons and Others

27. Prior to 2004, more than 100 Bankers managed a mix of U.S.-person and non-U.S.-person clients. In general, those Bankers managed only a small number of clients who were U.S. persons. In 2004, HSBC Switzerland management created a North American desk, generally staffed by four or five Bankers to focus on pre-existing U.S. clients (and also the clients of another country) and to help implement and follow U.S. Qualified Intermediary documentation requirements and SEC securities rules and regulations. Despite creating this new desk, HSBC Switzerland was slow to transfer all U.S.-person accounts to be handled by the desk.

28. Between 2005 and 2007, at least four Bankers on the North American desk traveled to the United States to meet at least 25 different clients, and took at least eleven trips to the United States. During these trips, HSBC Switzerland Bankers on the North American desk met with undeclared clients and prospective U.S. persons in an effort to obtain new clients. The following are illustrative examples:

- a. During a trip to the United States in 2006, Banker A discussed with a U.S. client the provision of a credit card linked to the client’s account for an upcoming trip to Europe. When the client asked if the card could be used to withdraw funds in the United States, Banker A counseled the client not to use the card in the United States “to avoid any risks.”
- b. In 2006, Banker B attended Design Miami in an effort to recruit prospective clients.
- c. In 2007, Banker A and Banker C planned a trip to the United States wherein Banker C was to stay in the United States for a month. Banker A wrote in an

email that Banker C's mission was "to contact a maximum of prospects and existing clients."

29. Some Bankers not assigned to the North American desk who retained U.S. clients despite the efforts at consolidation also traveled to the United States to meet with their clients.

E. HSBC Switzerland Exits the U.S. Cross-Border Business

30. In early 2008, it became public that the U.S. government had opened a criminal investigation of UBS AG, the largest bank in Switzerland, for tax and securities violations in connection with its maintaining undeclared accounts for U.S. clients. After learning this information, HSBC Switzerland did not immediately cease its own cross-border business with U.S. persons, but began a series of policy changes that ultimately culminated in HSBC Switzerland's exit from the business.

31. At first, HSBC Switzerland's management-instructed Bankers not to accept clients who were fleeing UBS in the wake of the investigation. Despite this directive, some Bankers assisted a few UBS clients to transfer their undeclared funds to HSBC Switzerland.

32. In June 2008, HSBC Switzerland made its policy towards U.S. persons more stringent, as later memorialized in an October 2008 document. The policy stated that U.S.-resident accounts could only be opened in "exceptional circumstances" and stated that entity accounts for non-residents must include evidence that the "account is not for tax avoidance." The document circulating the new policy stated that "US authorities" were taking "a tougher stance on tax avoidance and on breaches of investment regulations."

33. In February 2009, HSBC Switzerland decided to close accounts for U.S. persons who had \$1 million or less in AUM. HSBC Switzerland permitted those U.S. clients holding more than \$1 million to keep their accounts only if they signed a Form W-9, a waiver of Swiss bank secrecy, and a declaration of tax compliance. The declaration of tax compliance required the client to identify how they were declaring their account and listed the various U.S. tax reporting obligations.

34. Even after HSBC Switzerland had begun forcing its U.S. clients with undeclared accounts to exit the bank, HSBC Switzerland Bankers assisted clients in closing their accounts in a manner that continued to conceal their offshore assets. Some Bankers directed their clients to other Swiss banks that were continuing to accept undeclared accounts.

35. In some other instances, HSBC Switzerland Bankers allowed clients to close their accounts and withdraw the contents in cash, although bank management asked Bankers to advise clients not to do so. Clients who withdrew cash at account closing often did so to limit the paper trail between them and their undeclared accounts. For example, according to U.S. court filings, Andrew Silva, a U.S. person who inherited a share of an undeclared account held in the name of a trust with two other persons, received \$100,000 in cash from HSBC Switzerland's office in Zurich in 2009. He did so following a meeting with an external lawyer, who had served as his external advisor for a decade, and who told him to withdraw the money in cash and provided him with envelopes to mail it to the United States. According to Mr. Silva, when he collected the cash, the bank advised him that it would not wire money to the United States because that would

leave a record of the transfer. Silva then mailed the cash to himself in the United States in a series of packages, each containing less than \$10,000, in an attempt to evade currency-reporting requirements. After Silva pleaded guilty in the United States, HSBC Switzerland implemented a March 2010 policy to limit the amount of cash that a client could withdraw.

36. In December 2010, HSBC Switzerland management decided to renew its effort to close U.S.-person accounts, even those known to be declared, with limited exceptions for fully documented non-resident U.S. person accounts with AUM greater than \$5 million. HSBC Switzerland set out a specific closing process prohibiting certain types of transactions that could be used by clients to conceal undeclared assets, and it retained an accounting firm to support the closing process.

F. Examples of Misconduct

37. Examples of the misconduct described generally above include the following specific instances of misconduct involving various HSBC Switzerland Bankers and U.S. clients:

a. Client 1

- i. In approximately 1996, Client 1 and her siblings inherited the funds in a HSBC Switzerland account. At that time, Banker D and Banker E assisted Client 1 in opening an account at HSBC Switzerland in order to hold her share of the inherited funds. Banker E advised Client 1 to open the account in the name of a corporation in a tax-haven country, which in turn would be owned by a trust in a different tax-haven country. Banker E used HSBC Guyerzeller Trust to form the trust and provide trustees to manage the trust. Cordico Management AG provided nominee directors to manage the corporation and the account. Banker E advised Client 1 that this structure would make it less likely that the IRS would detect her ownership of the account.
- ii. Although the Cordico directors nominally managed the corporation, Client 1 and her spouse freely accessed the funds in the account through direct communication with the Banker.
- iii. Bankers gave Client 1, her spouse, and their children immediate access to the funds in the offshore account by providing them with credit cards linked to the account.
- iv. On numerous occasions in 2002 through 2006, at the command of Client 1, Bankers bid on and purchased works of art for sale at auction houses and galleries outside of the United States, and made a payment to a luxury vacation package provider, directly from Client 1's HSBC Switzerland account.
- v. In 2007, after HSBC Switzerland ceased using its wholly owned subsidiaries to manage trusts and entities for U.S. persons, the bank

transferred management of the corporation to Fiduciary 1, who was a former employee of HSBC Guyerzeller.

b. Client 2

- i. In 2003, Banker F solicited the business of Client 2 and convinced him to transfer some of his assets to HSBC Switzerland. Client 2 and his spouse had accounts with at least three other Swiss banks.
- ii. Banker F advised Client 2 to set up his account in the name of a personal investment company established in Panama. Banker F and his successor, Banker G, both advised Client 2 not to call them from a line in the United States and not to take account statements he obtained in Switzerland back to the United States.
- iii. Client 2 closed his account in 2009, around the time that HSBC Switzerland began closing U.S. accounts.

c. Client 3

- i. Client 3 had an account at HSBC Switzerland from 1990 until 2009, which was funded by money received from his non-U.S. person family. In 2000, Client 3's Banker, Banker H advised him that if he wished to continue to invest in U.S. securities, Client 3 needed to transfer his assets to an account held in the name of a company not associated with Client 3. Banker H suggested using a British Virgin Islands corporation; however, no corporation was formed.
- ii. Banker H instructed Client 3 not to call Banker H from inside the United States.
- iii. Banker H provided Client 3 with a travel cash card that was periodically replenished with funds from Client 3's undeclared account. Client 3 used the card to withdraw cash from ATM machines in the United States and Europe.
- iv. Client 3 closed his account in 2009, around the time that HSBC Switzerland began closing U.S. accounts.

d. Client 4

- i. A Banker spoke with Client 4 by phone and advised her to use "hold-mail" services. The Bank received Client 4's permission to not send mail to the client's U.S. address. The Banker noted that Client 4 had not declared her account to the IRS.
- ii. HSBC Switzerland identified the account for closure in 2009.

e. Client 5

- i. In 2008, during the time that UBS was actively exiting U.S. account holders, Client 5, who had an account at UBS, contacted Banker I and explained that he needed to leave UBS.
- ii. Banker I opened an account for Client 5 in the name of a Panamanian corporation. Neither Client 5 nor Banker I disclosed Client 5 as a U.S. person when opening the relationship. In 2009, when bank management determined that Client 5 was a U.S. person, it directed that the client close his relationship.
- iii. In September 2009, Banker I assisted Client 5 in transferring the assets from his HSBC Switzerland account to an account at a bank in Israel.

f. Client 6

- i. In approximately 2006, Client 6 opened an account at HSBC Switzerland in the name of a foundation with a non-U.S. person listed as beneficial owner. He funded this account with an approximately \$20 million transfer from a different Swiss bank. Client 6 met with Banker J in Zurich to open the account. Client 6 usually visited Zurich annually to meet with his Bankers about the account.
- ii. In 2009, in order to keep his account at HSBC Switzerland, Client 6 transferred his funds to an account in the name of his girlfriend, who was a citizen of Hong Kong. Bankers assured Client 6 that the account would not be disclosed to U.S. authorities and that, despite HSBC Switzerland's stated policy, they were willing to do business with Client 6 as long as the account was held in his girlfriend's name.

g. Sanjay Sethi

- i. In 2001, a GSAD Banker in New York City assisted Sanjay Sethi in opening an undeclared account in India, using Sethi's Indian passport as identification.
- ii. In 2002, Executive A, who led the GSAD program, met with Sethi at HSBC's offices in New York City. Executive A convinced Sethi to open an account at HSBC Switzerland, explaining that Swiss bank secrecy would protect the account from disclosure. Executive A explained that the secrecy laws would not apply for terrorist financing or "dirty money," but that Swiss judges would reject a request from the IRS that was based on tax evasion.

- iii. Executive A assisted Sethi in opening his undeclared account in the name of a sham trust that was, in turn, owned by a sham company in the British Virgin Islands. Executive A assured Sethi that the structure would allow his money to grow, tax-free, in a manner that would not be known to the IRS. In 2003, Executive A assisted Sethi in opening an account at HSBC in the United States in the name of a sham Cayman Islands corporation, with a foreign person's name listed as the beneficial owner of the account, even though both knew that Sethi was the true owner of the account.
- iv. In approximately 2007, Sethi met with Banker K at a hotel in New York City to discuss his account. Banker K told Sethi they could not meet in an HSBC office because "this business is quiet."

G. Voluntary Remedial Measures and Cooperation

- 38. HSBC Switzerland, with the support of other HSBC-owned or controlled entities, has undertaken substantial remedial measures and extensively cooperated with the Department of Justice and IRS's investigation of the offenses detailed above. These measures include the following:
- 39. HSBC contacted the Department of Justice in December 2008, prior to the resolution of the UBS investigation and years before the U.S. Swiss Bank Program.
- 40. HSBC Switzerland conducted a thorough and full internal investigation and self-reported its misconduct.
- 41. HSBC has facilitated the disclosure of client information and has cooperated in the prosecution of several former clients in the United States.
- 42. HSBC Switzerland also recommended participation in the IRS Offshore Voluntary Disclosure Program ("OVDP") in writing in 2011 and retained a Swiss law firm and a Swiss accounting firm to conduct an extensive outreach program to contact clients and encourage OVDP participation.
- 43. HSBC Switzerland advocated in favor of a decision made by the Swiss Federal Council in April 2012 to allow it and other banks to produce certain information to the Department of Justice and subsequently produced that information to the Department almost immediately in May 2012.
- 44. HSBC Switzerland implemented new policies and procedures intended to protect against the use of its services for tax evasion. These initiatives included policies limiting cash withdrawals and discontinuing the use of holdmail, as well as a tax transparency policy that required a review of accounts against possible indicia of tax evasion and the closure of any account with unresolved issues. HSBC Switzerland has also implemented FATCA and the Common Reporting Standard.

45. HSBC substantially restructured HSBC Switzerland. Since 2009, the senior management of HSBC Switzerland has changed substantially, with a complete overhaul of its management team. In addition to effectively exiting the U.S. market, HSBC Switzerland has also substantially reduced the total number of markets and clients it serves. HSBC Switzerland now has fewer than 5,000 accounts in total. This is a decrease of more than 85 percent since the late 2000s.