

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : SUPERSEDING INFORMATION

-v.- : S1 14 Cr. 713 (KBF)

PETER CANALE, :

Defendant. :

- - - - -X

COUNT ONE
(Willful Failure to File Reports of
Foreign Bank and Financial Accounts)

The United States Attorney charges:

The Defendant and Other Relevant Persons and Entities

1. At all times relevant to this Information, PETER CANALE, the defendant, was a citizen and resident of the United States. CANALE, who previously lived, among other places, in New York, New York, currently resides in Jamestown, Kentucky and is a retired optometrist.

2. At all times relevant to this Information, a relative of PETER CANALE, the defendant, (the "Relative") was a citizen and resident of the United States. The Relative died in or about 2000.

3. At all times relevant to this Information, Beda Singenberger ("Singenberger"), was a citizen and resident of Switzerland. Singenberger owned, operated, and controlled a financial advisory firm called Sinco Treuhand AG ("Sinco").

Sinco maintained its principal place of business in Zurich, Switzerland. Acting directly and indirectly through Sinco and its employees, Singenberger provided wealth management and tax advice to individuals around the world, including to United States taxpayers.

4. At all times relevant to this Information, UBS AG ("UBS") was a corporation organized under the laws of Switzerland. UBS, directly and through its subsidiaries, operated a global financial services business. Among other things, UBS provided banking, wealth management, and asset management services to individuals and entities around the world, including to United States taxpayers.

5. At all times relevant to this Information, Hans Thomann ("Thomann"), was a citizen and resident of Switzerland. From in or about 1993 until at least in or about 2003, Thomann was a client advisor at UBS. From in or about 2003 until at least in or about 2010, Thomann was a client advisor at a series of asset management firms based in Switzerland (collectively, the "Swiss Asset Managers").

6. At all times relevant to this Information, Wegelin & Co. ("Wegelin") was a bank organized under the laws of Switzerland with its headquarters in St. Gallen, Switzerland. Wegelin provided private banking, asset management, and other

services to individuals and entities around the world, including to United States taxpayers.

7. At all times relevant to this Information, a Swiss private bank ("Swiss Bank A") was organized under the laws of Switzerland with its headquarters in Zurich, Switzerland. Swiss Bank A provided private banking, asset management, and other services to individuals and entities around the world, including to United States taxpayers.

**Obligations of United States Taxpayers
With Respect to Foreign Financial Accounts**

8. Citizens and residents of the United States who have income in any one calendar year in excess of a threshold amount ("U.S. taxpayers") are obligated to file a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), for that calendar year with the Internal Revenue Service ("IRS"). At all times relevant to this Information, Form 1040 required U.S. taxpayers to report their income from any source, regardless of whether the source of their income was inside or outside the United States. In addition, on Schedule B of Form 1040, the filer must 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." If the U.S. taxpayer answers that question in the

affirmative, then the U.S. taxpayer must indicate the name of the particular country in which the account is located. At all times relevant to this Information, PETER CANALE, the defendant, and the Relative were U.S. taxpayers.

9. Separate and apart from the obligation to file Forms 1040 that include all worldwide income, U.S. taxpayers who have a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country with an aggregate value of more than \$10,000 at any time during a particular calendar year are required to file with the IRS a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 ("FBAR"). The FBAR for any calendar year is required to be filed on or before June 30 of the following calendar year. In general, the FBAR requires that the U.S. taxpayer identify the financial institution with which the account is 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 is being filed.

10. When a U.S. taxpayer beneficially owns a bank, securities, or other financial account that is maintained outside the United States, but fails to disclose the account or the income generated in the account to the IRS on Schedule B of Form 1040 or on an FBAR, the account is referred to as an "undeclared account."

**The Undeclared Accounts of the Defendant and His Relatives,
Including at Wegelin and Swiss Bank A**

11. Beginning in or about at least the early 1990s, the Relative maintained an undeclared account at a predecessor firm of UBS.

12. In or about November 1993, the Relative executed written instructions indicating how the Relative sought to have his assets held in an account at the UBS predecessor firm distributed upon his death (the "Distribution Instructions"). The Distribution Instructions indicated, in substance and in part, that, among others, PETER CANALE, the defendant, was to receive a substantial portion of the assets held in the Relative's account at the UBS predecessor firm. The Distribution Instructions further indicated, in substance and in part, that they would form part of the Relative's last will and testament, but would not be "probated together with [his] Last Will and Testament" or be made public.

13. Prior to in or about July 2000, the Relative introduced PETER CANALE, the defendant, to Thomann in New York, New York, where they discussed the Relative's undeclared account.

14. In or about July 2000, the Relative died.

15. In or about late 2000 or 2001, PETER CANALE, the defendant, met with Thomann at a hotel in New York, New York.

During that meeting, Thomann introduced CANALE to Singenberger, who was also present. During the meeting, Thomann and Singenberger discussed with CANALE the continued maintenance of the assets that CANALE and his brother, Michael Canale, had inherited from the Relative. Among other things, they agreed that Thomann, working with Singenberger, would continue to maintain the assets in an undeclared account in Switzerland for the benefit of CANALE and Michael Canale.

16. In or about June 2005, PETER CANALE, the defendant, met with Singenberger in Miami, Florida. At or about that time, CANALE entered into an agreement with Sinco, whereby Sinco was appointed to administer a foundation formed for the benefit of CANALE under the laws of Liechtenstein called the Janara Foundation, which foundation Singenberger had formed or was then in the process of forming (the "Janara Agreement").

17. In or about July 2005, PETER CANALE, the defendant, opened, and caused to be opened, an undeclared account at Wegelin. CANALE did so with the assistance of Singenberger. The undeclared account at Wegelin was opened in the name of the Janara Foundation. At the time of the opening of the Janara Foundation account at Wegelin, Singenberger identified CANALE as the beneficial owner of the assets held in the Janara Foundation account at Wegelin and provided, and caused to be provided, a copy of CANALE's United States passport

to Wegelin. Pursuant to the Wegelin account-opening documents that were executed, Singenberger and Sinco were permitted to act on behalf of the Janara Foundation.

18. On several occasions after he opened, and caused to be opened, the Janara Foundation account at Wegelin, PETER CANALE, the defendant, met with Singenberger or another representative of Sinco. On one occasion, CANALE accepted between \$40,000 and \$60,000 from a representative of Sinco.

19. On or about December 31, 2009, the Janara Foundation account at Wegelin held assets valued at approximately \$788,920.

20. In or about May 2010, Singenberger, acting under the authority given to him by PETER CANALE, the defendant, opened, and caused to be opened, an undeclared account at Swiss Bank A for CANALE. The undeclared account at Swiss Bank A for CANALE was opened in the name of the Janara Foundation. At the time of the opening of the Janara Foundation account at Swiss Bank A, Singenberger identified CANALE as the beneficial owner of this account. Pursuant to the Swiss Bank A account-opening documents that were executed, Singenberger and Sinco were permitted to act on behalf of the Janara Foundation.

21. On or about May 19, 2010, a representative of Sinco directed Wegelin to transfer all of the assets and account

balances held in the Janara Foundation account at Wegelin to the Janara Foundation account at Swiss Bank A.

22. On or about October 31, 2010, the Janara Foundation account at Swiss Bank A held assets valued at approximately \$718,143.

**Revelation of The Undeclared Accounts Held by
The Defendant**

23. Between in or about 2007 and 2010, Singenberger provided to one of his U.S. taxpayer clients a document (the "Singenberger Client List") containing significant details regarding clients and prospective clients who were U.S. taxpayers, including:

- a. The U.S. taxpayers' last names and, in some cases, first names;
- b. Their places of residence;
- c. The dates and places of Singenberger's last meeting with the U.S. taxpayers;
- d. The names of the entities through which the U.S. taxpayers held their accounts;
- e. The jurisdictions under whose laws these entities were formed, for example, Hong Kong or Liechtenstein;
- f. The names of the Swiss banks at which the entities held the U.S. taxpayers' accounts, including Wegelin; and/or

g. The names of the client advisors who serviced the U.S. taxpayers' accounts at the identified Swiss banks.

24. With respect to PETER CANALE, the defendant, the Singenberger Client List indicated, in substance and in part, that a foundation was formed under the laws of Liechtenstein on behalf of "Canale Peter" and further provided the name of the foundation. The Singenberger Client List accurately noted the city and state of residence of CANALE, Jamestown, Kentucky. Finally, the Singenberger Client List further noted that Singenberger had last met with CANALE in New York on January 20, 2006.

25. In or about April 2011, PETER CANALE, the defendant, became aware of the grand jury investigation concerning his undeclared accounts.

The Defendant's Tax Returns and FBARS

26. For each of the calendar years from at least 2007 through 2010, PETER CANALE, the defendant, filed and caused to be filed with the IRS a U.S. Individual Income Tax Return, Form 1040. On each of these returns, CANALE knowingly and willfully failed to report as income dividends, interest, and other income received by CANALE in one or more bank, securities, and other financial accounts at Wegelin and Swiss Bank A. On Schedule B attached to each of these returns, CANALE knowingly and

willfully failed to disclose that CANALE had an interest in and signature and other authority over a financial account in Switzerland, when, in truth and in fact, and as CANALE then and there well knew, CANALE had an interest in and signature authority over a financial account in Switzerland.

27. For each of the calendar years from at least 2007 through 2010, PETER CANALE, the defendant, failed to file, and failed to cause to be filed, with the IRS an FBAR disclosing his signatory and other authority over his accounts at Wegelin and, later, Swiss Bank A.

Statutory Allegations

28. On or before the filing due dates listed below, in the Southern District of New York and elsewhere, PETER CANALE, the defendant, did knowingly and willfully fail to file with the Commissioner of the IRS an FBAR disclosing that CANALE had a financial interest in, and signature and other authority over, a bank, securities, and other financial account in a foreign country, to wit, at least one foreign bank, securities, and other financial account at Wegelin and/or Swiss Bank A, which had an aggregate value of more than \$10,000 during each of the years listed below:

Calendar Year	Due Date to File FBAR	Bank(s)
2007	June 30, 2008	Wegelin
2008	June 30, 2009	Wegelin
2009	June 30, 2010	Wegelin
2010	June 30, 2011	Wegelin, Swiss Bank A

(Title 31, United States Code, Sections 5314 and 5322(a);
Title 31, Code of Federal Regulations,
Sections 1010.350, 1010.306(c, d), and 1010.840(b).)

Preet Bharara

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United States Attorney

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