

09-60210

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

**CASE NO. CR-HURLEY MAGISTRATE JUDGE
VITUNAC**
18 U.S.C. § 371

UNITED STATES OF AMERICA

vs.

**HANSRUEDI SCHUMACHER and
MATTHIAS RICKENBACH,**

Defendants.

_____ /

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. The Internal Revenue Service (“IRS”) was an agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United States.

2. UBS AG (“UBS”) was Switzerland’s largest bank. UBS owned and operated banks, investment banks, and stock brokerage businesses throughout the world, also operating in the Southern District of Florida and elsewhere in the United States.

3. UBS operated a cross-border banking business with United States clients (“United States cross-border business”) and provided private banking services to United States clients. The United States cross-border business employed approximately 60 private bankers and had

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offices in Geneva, Zurich, and Lugano, Switzerland. These private bankers frequently traveled to the United States to meet with and to conduct business with their United States clients. Swiss private bankers and managers within the United States cross-border business knew that their United States clients were required to report and pay taxes to the IRS on income they earned throughout the world.

4. Neue Zuercher Bank ("NZB") was a private bank located in Zurich, Switzerland. NZB was established in 2000 by three bankers formerly employed by Bank Julius Baer, a large Swiss bank. In 2001, NZB became a member of the Swiss stock exchange. In 2002, NZB opened private banking operations under the direction of defendant HANSRUEDI SCHUMACHER.

5. Rickenbach & Partner was a law firm with offices in Zurich and Geneva, Switzerland. Rickenbach & Partner advertised that it specialized in international banking law and establishing and administering Swiss corporations and otherwise was a full-service practice providing corporate and individual legal solutions to international clients.

The Conspirators

6. From the late 1990's through mid-2002, defendant HANSRUEDI SCHUMACHER was the Regional Market Manager for UBS's North America International business, which included the United States cross-border business. From 2000 through mid-2002, as Regional Market Manager, defendant HANSRUEDI SCHUMACHER headed UBS's cross-border business. In mid-2002, defendant HANSRUEDI SCHUMACHER left UBS to continue to conduct private banking with NZB. From mid-2002 through at least July 2009, defendant HANSRUEDI SCHUMACHER was a private banker and executive manager at NZB, where he

serviced United States clients who wished to conceal their assets and income from United States authorities, some of these clients also continued to maintain account relationships with UBS.

7. From the late 1990's through the date of this Indictment, defendant MATTHIAS RICKENBACH was a lawyer with Rickenbach & Partner, a law firm located in Zurich, Switzerland. Defendant MATTHIAS RICKENBACH received a masters degree in tax law from the University of San Diego in 1999 and was a member of the Swiss-American Chamber of Commerce. Defendant Matthias RICKENBACH provided legal advice and services to United States clients who wished to set up sham and nominee offshore corporations and trusts in order to conceal their assets and income from the United States authorities.

8. From the 1970's through the date of this Indictment, Jeffrey Chernick, a co-conspirator, owned and operated a company that represented foreign toy manufacturers. Chernick, a resident of Stanfordville, New York, owned and controlled assets in UBS and NZB bank accounts in Switzerland. Chernick utilized the services of defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH to aid him conceal assets from United States authorities.

9. From at least 2003 through 2008, John McCarthy, a co-conspirator, a resident of Malibu, California, owned and controlled assets in UBS and NZB bank accounts in Switzerland. John McCarthy utilized the services of defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH to aid him conceal assets from United States authorities.

10. From the early 2000's through the date of this indictment, J.E., an unindicted co-conspirator not named herein, a resident of White Plains, New York, controlled assets in UBS and NZB bank accounts in Switzerland owned by her mother. J.E. utilized the services of

defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH to aid her conceal assets from United States authorities.

11. From at least 2002 through December 31, 2008, E.G., an unindicted co-conspirator not named herein, a resident of Boca Raton, Florida, owned and controlled assets in UBS and Bank Julius Baer accounts in Switzerland. E.G. utilized the services of defendant MATTHIAS RICKENBACH to aid him conceal assets from United States authorities.

COUNT ONE
(18 U.S.C. § 371)

12. The allegations contained in paragraphs 1 through 11 of the Introduction are re-alleged and incorporated herein.

13. From in or about 2000, the exact date unknown to the Grand Jury and continuing up to and including the date of this Indictment, in the Southern District of Florida and elsewhere, the defendants,

**HANSRUEDI SCHUMACHER and
MATTHIAS RICKENBACH,**

together with their co-conspirators, unlawfully, willfully and knowingly, did combine, conspire, confederate and agree together and with each other to defraud the United States and an agency thereof, to wit, the Internal Revenue Service of the United States Department of Treasury, in the ascertainment, computation, assessment and collection of federal income taxes.

OBJECT OF THE CONSPIRACY

14. It was a part and an object of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators would and did aid and assist United States clients in willfully evading their income tax obligations by, among other things, filing false income tax returns and failing to disclose the existence of their UBS and NZB accounts to the IRS.

MEANS AND METHODS OF THE CONSPIRACY

Among the means and methods by which defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators would and did carry out the conspiracy were the following:

15. It was part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators established sham and nominee offshore entities to hide their United States clients' assets and income from United States authorities.

16. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators regularly traveled to the United States to conduct banking and investment activities with their United States clients. The defendants and their co-conspirators concealed their business activities in the United States by falsely and fraudulently representing to United States authorities that they were traveling to the United States for personal reasons.

17. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators solicited their United States clients to transfer funds from UBS to NZB by claiming that NZB had no presence in the

United States, no Qualified Intermediary Agreement which would have created a tax withholding and tax reporting obligation for certain accounts, and therefore NZB could not be pressured by the United States authorities to disclose the identities of their United States clients.

18. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators solicited and provided credit or debit cards to their United States clients, which were linked to the United States clients' offshore accounts. The defendants and their co-conspirators advised their United States clients not to use these credit or debit cards in the United States, where United States authorities could discover their credit or debit card transactions.

19. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators transferred funds via wire transfer from United States clients' offshore accounts to accounts in the United States.

20. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators prepared sham loan documents for United States clients in order to conceal from the IRS that the United States clients repatriated funds from their offshore accounts and to generate false and fraudulent loan interest deductions on United States income tax returns.

21. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators provided their United States clients with cellular telephones and telephone calling cards to allow the United States clients to contact their offshore bankers and financial service providers in a manner that was not traceable by United States authorities.

22. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators withdrew cash from the United States clients' offshore accounts in Switzerland and hand-delivered cash to the United States clients in the United States.

23. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators assisted United States clients in preparing IRS Forms W-8BEN that falsely and fraudulently stated that nominee offshore structures, and not the United States clients, were the beneficial owners of offshore bank and financial accounts maintained in foreign countries, including accounts in Switzerland at UBS, NZB and other Swiss banks.

24. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators falsified bank documents and other documents in order to create the appearance that assets of their United States clients belonged to Swiss citizens.

25. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators falsified documents to disguise their United States clients' repatriation of offshore funds as inheritances from foreign citizens.

26. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators instructed their United States clients to divert business receipts into separate bank accounts, and then to transfer the diverted funds to offshore bank accounts so that there would be no evidence of the diversion on

the books and records of the business.

27. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH and their co-conspirators advised their United States clients to maintain large amounts of cash in Swiss safety deposit boxes in order to conceal their ownership of the funds from the IRS.

28. It was further part of the conspiracy that defendants HANSRUEDI SCHUMACHER, MATTHIAS RICKENBACH, and their co-conspirators convinced certain of their United States clients not to declare to the IRS the existence of their offshore accounts nor the income earned thereon through the IRS's Voluntary Disclosure Program.

29. It was further part of the conspiracy that some United States clients prepared and filed with the IRS income tax returns that falsely and fraudulently omitted income earned on their undeclared Swiss Bank accounts and that falsely and fraudulently reported that said United States citizens did not have an interest in, or a signature or other authority over, financial accounts located in a foreign country.

30. It was further part of the conspiracy that the United States clients failed to file with the Department of Treasury a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1, which would have disclosed the existence of and their interest in, or signature or other authority over, a financial account located in a foreign country.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the co-conspirators committed at least one of the following overt acts, among others, in the Southern District of Florida and elsewhere:

Concealment of Jeffrey Chernick's Assets

31. On or about April 19, 2002, defendant MATTHIAS RICKENBACH, co-conspirator Jeffrey Chernick, and others caused the creation of nominee entity Simba International Limited ("Simba"), a Hong Kong Corporation.

32. On or about April 19, 2002, co-conspirator Jeffrey Chernick, defendant MATTHIAS RICKENBACH, and others, caused the opening of a bank account at UBS in Switzerland in the name of Simba, which contained assets that Chernick owned and controlled.

33. In or about the spring of 2003, defendant HANSRUEDI SCHUMACHER advised co-conspirator Jeffrey Chernick to conceal his ownership of assets from the United States authorities by transferring funds from UBS to NZB, which SCHUMACHER claimed was beyond the reach of the United States Government because NZB had no Qualified Intermediary Agreement with the IRS and no presence in the United States.

34. In or about winter of 2003-2004, defendant MATTHIAS RICKENBACH and co-conspirator Jeffrey Chernick caused to be created a sham Hong Kong entity to conceal as a loan the repatriation of approximately \$700,000 by Chernick used to purchase a 30 acre parcel of land adjacent to his home in New York.

35. On April 15, 2008, co-conspirator Jeffrey Chernick filed his United States Individual Income Tax Return, Form 1040, for the 2007 tax year, listing his address as

Stanfordville, New York, that fraudulently omitted income earned from off-shore assets and falsely represented that Chernick did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

36. In or about July 2008, defendant MATTHIAS RICKENBACH, in response to co-conspirator Jeffrey Chernick's request for help in disclosing his offshore assets and income to the IRS, advised Chernick not to pursue the IRS's Voluntary Disclosure Program.

37. In or about July 2008, co-conspirator Jeffrey Chernick authorized \$45,000 to be withdrawn from his account based on the representation of defendants MATTHIAS RICKENBACH and HANSRUEDI SCHUMACHER that the money would be paid to a Swiss government official who agreed to disclose if Chernick's UBS account information would be turned over to the United States authorities.

Concealment of John McCarthy's Assets

38. On or about July 3, 2003, defendant MATTHIAS RICKENBACH advised co-conspirator John McCarthy to set up a Liechtenstein foundation in order to further conceal McCarthy's beneficial ownership in assets held offshore at UBS.

39. On or about July 18, 2003, defendant MATTHIAS RICKENBACH, co-conspirator John McCarthy, and others caused the creation of COG Enterprises Limited ("COG"), a nominee Hong Kong entity, naming RICKENBACH a director.

40. On or about July 30, 2003, defendant MATTHIAS RICKENBACH and co-conspirator John McCarthy caused the creation of a bank account in the name of COG at UBS in Switzerland with an opening balance of approximately \$1 million.

41. On or about September 8, 2003, co-conspirator John McCarthy, with the

assistance of defendant MATTHIAS RICKENBACH, transferred money from his United States business bank account into a separate United States domestic bank account. McCarthy, with the assistance of RICKENBACH, transferred these funds to a UBS bank account in Switzerland.

42. On or about June 30, 2005, co-conspirator John McCarthy willfully failed to file a Report of Foreign Bank and Financial Accounts (Form TD F 90-22.1)(FBAR) disclosing that he had a financial interest in, and signature and other authority over, a financial account in a foreign country, namely McCarthy's Swiss bank account at UBS AG, which account had an aggregate value of more than \$10,000 during the year 2004.

43. On or about November 3, 2006, defendant MATTHIAS RICKENBACH met with co-conspirator John McCarthy in Las Vegas and discussed the set-up of offshore structures and various offshore investments that RICKENBACH claimed could earn McCarthy more money.

44. During the summer of 2008, defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH advised co-conspirator John McCarthy against repatriating his assets into the United States.

45. On or about October 29, 2008, defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH assisted McCarthy to transfer approximately \$2.5 million of his assets from UBS to NZB.

Concealment of J.E.'s Mother's Assets

46. In or about 2005, defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH advised unindicted co-conspirator J.E. to transfer her mother's assets to an account in the name of SCHUMACHER's father in order to conceal these assets from the IRS. According to SCHUMACHER, upon his father's death, the money could be repatriated to the United States under the guise of an inheritance to J.E.'s children, nieces, and nephews.

47. In or about 2005, defendants HANSRUEDI SCHUMACHER and MATTHIAS RICKENBACH created Klaerly-Stiftung, a fraudulent entity that was purportedly owned by SCHUMACHER's father.

48. In or about 2005, unindicted co-conspirator J.E. transferred approximately \$7 million into Klaerly-Stiftung.

49. In or about 2007, defendant HANSRUEDI SCHUMACHER caused defendant MATTHIAS RICKENBACH's father to hand carry \$5,000 from Switzerland to the United States for delivery to unindicted co-conspirator J.E. at John F. Kennedy Airport in New York.

Concealment of E.G.'s Assets

50. On or about June 5, 2002, defendant MATTHIAS RICKENBACH, unindicted co-conspirator E.G., and others caused the creation of Masuda Marine, Ltd. ("Masuda"), a nominee Hong Kong entity, naming RICKENBACH a director.

51. On or about November 11, 2002, defendant MATTHIAS RICKENBACH and unindicted co-conspirator E.G. caused the creation of a bank account at UBS in Switzerland, with an opening balance of approximately \$2 million, in the name of Masuda, over which RICKENBACH had signature authority and which contained assets owned and controlled by E.G.

52. In June 2008, defendant MATTHIAS RICKENBACH advised unindicted co-conspirator E.G. that his name and account information would not be provided to the United States and that he should transfer his offshore assets held in Switzerland from UBS to another private bank in Switzerland.

53. On or about July 7, 2008, unindicted co-conspirator E.G. filed his United States Individual Income Tax Return, Form 1040, for the 2007 tax year, listing his address as Boca Raton, Florida, that fraudulently omitted income earned from off-shore assets and falsely represented that E.G. did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

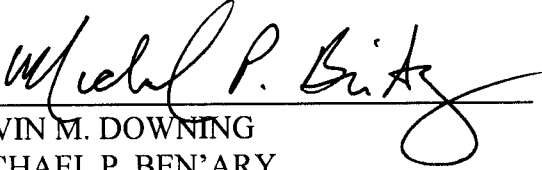
54. In or about October 2008, defendant MATTHIAS RICKENBACH advised unindicted co-conspirator E.G. that his name and account information would not be provided to the United States and that E.G. should transfer his offshore assets from UBS to Bank Julius Baer in Switzerland and that E.G. should hire a Swiss attorney to attempt to block UBS from turning any records over to the United States.

All in violation of Title 18, United States Code, Section 371,

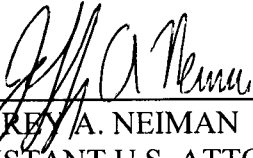
GRAND JURY FOREPERSON



JEFFREY H. SLOMAN
ACTING UNITED STATES ATTORNEY



KEVIN M. DOWNING
MICHAEL P. BEN'ARY
TRIAL ATTORNEYS



JEFFREY A. NEIMAN
ASSISTANT U.S. ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

vs.
HANSRUEDI SCHUMACHER and
MATTHIAS RICKENBACH

CERTIFICATE OF TRIAL ATTORNEY*

Court Division: (Select One)

X Miami _____ Key West
FTL _____ WPB _____ FTP

Superseding Case Information:

New Defendant(s) Yes _____ No _____
Number of New Defendants _____
Total number of counts _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 6 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	_____	Petty	_____
II	6 to 10 days	<u>X</u>	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)


Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? _____ Yes X No



Jeffrey A. Neiman
ASSISTANT UNITED STATES ATTORNEY
Court Bar No. 544469

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

Defendant's Name: HANSRUEDI SCHUMACHER No.: _____

Count #1:

Conspiracy to Defraud the United States; in violation of 18 U.S.C. §371

*Max Penalty: 5 years' imprisonment; 3 years' supervised release; and \$250,000 fine

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms or forfeitures that may be applicable.**

