Paradies Perdu – The End of Swiss Banking Secrecy

From Lukas Hässig, published in April 2010 by Hoffmann und Campe, Hamburg
(see more details on http://lukashaessig.ch/)

Synopsis

The world famous Swiss banking secrecy transformed Switzerland's financial industry into a leader in offshore banking. Once thought as a safe haven for the fortunes of refuges as much as fallen political leaders, Swiss banking secrecy had become the core of a tax evasion machine that brought enormous wealth to Swiss banks and their homeland. Hardly anyone anticipated the sudden death of the Swiss financial speciality when a topmanager of the financial giant UBS was detained in Spring 2008 by US authorities that marked the start of an intense raid against the small Alpine country.

The book „Paradies Perdu – The End of Swiss Banking Secrecy“ recalls in detail the astonishing tax fraud system of UBS, once one of the most respected and influential banking corporation. Putting the spectacular tax case in the heart of the story while showing the consequences for the whole Swiss banking industry, the book is at the same time: a thriller with many new details, a lively narrative and a precise analysis of an era that has come to an end.

The **Prologue** („Revenge“) tells the incredible story of an UBS wealth manager turned into a whistleblower who brought his former employer, a financially and politically superpower, down to its knee. The implications are huge. Switzerland had to bail out UBS that faced a charge as a criminal organisation in the U.S., by handing over protected data of thousands of longstanding clients to the authorities. The Swiss emergency action to save its biggest bank and its top brass sends a dangerous message to the wealthiest citizens all over the planet: Under pressure Switzerland would give up its banking secrecy and hand over client data to protect the interests of its banks.

Chapter One („Long live Swiss Banking Secrecy!“) delivers a short overview of how Switzerland created a strict banking secrecy and tried to defend it over the years. The chapter ends with quoting Hans Baer, a famous Swiss banker and former chairman of private bank Julius Baer, who critisised the difference between tax evasion and tax fraud as not understandable for ordinary people. „It's like saying that you are allowed to kill your mother-in-law but not your mother“, Mister Baer said in an interview in 2004. Swiss financial community blamed him for betrayal.

Chapter Two („Contract with U.S.“) gives an in-depth analysis of U.S. tax laws for a so-called Qualified Intermediary. Instead of living the spirit of the contract that gave access to the U.S. securities market, Swiss banks like UBS looked for loopholes. They found one in creating sham entities in offshore domiciles which formally belonged to Non-Americans and therefore didn't have to pay U.S. income taxes. In reality these vehicles had the only purpose to hide the real beneficial owners who were wealthy U.S. clients of Swiss banks trying to evade U.S. taxes.

Chapter Three („Soldiers of UBS“) describes the methods in UBS's wealth managment while advising U.S. clients. Internal UBS documents qualified U.S. crossborder business as risky by its nature. For instance, to fulfill all obligations Swiss client advisors were not allowed to talk about financial products with their American clients while they were staying in the U.S. The problem was that the Swiss bankers didn't possess the necessary licences, a fact that was part of the company strategy. Only by continuing crossborder wealth management was it possible to serve Americans with undisclosed assets in Switzerland. UBS's topmanagement was well aware of secret measures such as travel laptops for downloading client data in the U.S. and a special software that would erase all evidence, should the wealth managers be caught in action. A growth strategy with the name „TASTE for BUCKS“ implemented incentives for client advisors to attract as much net new money as possible. To reduce some risks, UBS and other Swiss banks outsourced the creation of sham entities to a shadow system where murky external tax consultants and wealth managers were building structured tax vehicles in Liechtenstein, the Caribbean and other tax havens.

Chapter Four („Whistleblower“) covers the story of Bradley Birkenfeld, an UBS client advisor who brought a wealthy Russian, Igor Olenicoff, with him when he joined the Swiss bank in 2001. With the help of a tax consultant in Liechtenstein, Birkenfeld constructed sham entities for his most important client who held about 200 million Dollars offshore. Tipped by a former accountant, the U.S. tax authority Internal Revenue Service (IRS) started to investigate Olenicoff's offshore accounts in Spring 2005. That was the perfect moment for Birkenfeld to start its feud against UBS. He accused his employer of pushing its U.S. client advisors into illegality while protecting itself by an internal compliance paper that formally prohibited the secret and illegal behaviour. Birkenfeld secretly transferred Olenicoffs assets from UBS to a small wealth manager in Geneva where he would become a partner in Spring 2006. The affair escalated when Birkenfeld formally blew the whistle within UBS in March 2006. Instead of rigourosly examining the legal risks of its U.S. crossborder business, the then legal head and futur chairman of UBS closed a deal with Birkenfeld. UBS payed him 500'000 Dollars and installed some educational measures, but apart from that it continued with its U.S. activities.

Chapter Five („Attack of U.S.“) introduces the senior litigation counsel of the U.S. Department of Justice (DOJ) who orchestrated the attack against UBS and the Swiss banking secrecy. Kevin Downing, a former marine of the U.S. navy, would become the single most important person in the drama. When whistleblower Bradley Birkenfeld put evidence of a fraudulent tax evasion system of UBS on his table, Downing immediately realised the case's dimension. In Autumn 2007, he started a criminal investigation against the Swiss bank whose seriousness had been underestimated by UBS's topmanagement for a long time. It was not until Downing arrested Martin Liechti, head of UBS offshore wealth management Americas and part of the inner circle of the financial behemoth, that the highest ranks at the Swiss bank understood the message. But at that moment it was already to late for them to reach a settlement with Downing and his combatants.

Chapter Six („Naive Swiss“) illustrates the growing desperation on the Swiss side in the UBS tax affair. In Summer 2008, the Swiss government and its administration successfully persuaded the U.S. authorities to demand the names of UBS clients through an existing tax treaty. But the Swiss bureaucracy didn't switch into emercency mode, and on October 17, 2008, U.S. litigation counsel Downing declared war at a secret meeting in the Federal Reserve Bank of New York. If Switzerland didn't hand over around 250 names of U.S. taxpayers who evaded their taxes with the help of their UBS bankers, the DOJ would indict the bank as a criminal organisation. In the following weeks, the Swiss government, its senior administrators and UBS's legal counsels developped an emergency plan to break Swiss banking secrecy, in order to save Switzerland's biggest bank from an indictment. The main fear was that UBS would risk to become a second Arthur Andersen case, the consultancy that went bankrupt after having been indicted by U.S. authorities for its role in the Enron affair. On Februar 18, 2009, Switzerland handed over a compact disc with the names of 255 U.S. taxpayers who were suspected tax evaders. Most controversially, these clients were deprieved of their guaranteed right to appeal the decision of dislosing their banking data. Although it was highly unlikely that the U.S. would attack UBS with all its force in a time of turmoil in global financial markets, Switzerland shyed the risk of an indicment. Instead it gave a higher priority to the prosperity of its biggest bank than to its reputation as a democratic constitutional state.

Chapter Seven („End of Banking Secrecy“) explains the reasons why Switzerland had to give up its traditional banking secrecy within a few weeks. G20, a newly important group of the 20 most influential states, used its power to put Switzerland and other financial tax paradises such as Singapore and Luxembourg on a grey list. The international community threatened with severe boykotts against these countries. On March 13, 2009, Switzerland accepted unconditional international cooperation not only in the case of tax fraud, but also in the case of tax evasion. With this small change, an epoch of 75 years that had brought prosperity and influence to the small country in the middle of Europe, had come to an unexpected and aprupt end.

Chapter Eight („Betrayal") tells the story of an U.S. doctor from New York who had built up a million dollar offshore fortune at UBS over the years. After having been assured by UBS of eternal protection of his banking data, the 80-year-old pensioner lost its faith in Switzerland when he learned in Summer 2009 that his banking details would be disclosed, together with some 4000 other UBS clients. Instead of letting UBS go down, Switzerland decided to bail out the bank once more, after it had stabilized it financially with billions in the aftermath of the demise of Lehman Brothers. Swiss government agreed to criminalise tax evasion under certain conditions in order to be able to disclose the data of thousands of taxpayers. Months later, a Swiss court would stop the disclosure by argueing that it takes a parliamentary decision for such a fundamental switch in the interpretation of traditional Swiss banking secrecy laws.

Chapter Nine („Poor Switzerland") is a conclusion of the failure of UBS and the whole Swiss banking industry. The country and its citizens must be prepared for tougher conditions. It will no longer be possible to take an extra profit by distinguishing in a savvy way between harmless tax evaders and criminal tax fraudsters. Although it was still unclear how much of the 2000 billion Swiss Francs of wealthy foreigners laying on Swiss bank accounts would be withdrawn, it became obvious that offshore banking was no longer the fat goose it used to be. Out of the blue, the cold wind of global competition blew into the face of the long protected Swiss financial industry and announced a future with wealth and prosperity no longer as a free lunch, but a fruit of hard work.

The **Epilogue** („2010") is talking about growing pressure from European countries to disclose the mountain of tax evaded fortunes. The tactics reach from maximising tax income by offering attracive tax amnesties in Italy to using stolen banking data to threaten German tax evaders. To contradict the allegation of cooperating with gangsters and blackmailers, Germany's authorities argued that special situations make special measures necessary. According to the big and powerful northern neighbour, there is no doubt that its fight against widespread tax evasion allows the use of heavy weapons. And so, in Spring 2010, Switzerland sees its near future in dire colors.

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