

**Opening Statement of Senator Carl Levin
Before
U.S. Senate Permanent Subcommittee on Investigations
on
Tax Haven Banks and U.S. Tax Compliance**

July 17, 2008

About 50 tax havens operate in the world today. Their twin hallmarks are secrecy and tax avoidance. Some tax havens are little known places like Andorra and Vanuatu that few Americans have heard of. Others, like Switzerland and Liechtenstein, are notorious for operating behind an iron ring of secrecy. Billions and billions of dollars worth of U.S. assets find their way into these secrecy tax havens, aided by banks, trust companies, accountants, lawyers, and others. Each year, the United States Treasury loses an estimated \$100 billion in tax revenues from offshore tax abuses. Tax havens are engaged in economic warfare against the United States and honest, hardworking American taxpayers.

Today we will look at two banks that relied on secrecy and deception to hide, not just the tax avoidance schemes of their clients, but the actions they themselves took to facilitate U.S. tax evasion. First is LGT, a private bank owned by the royal family of Liechtenstein. Liechtenstein is a tiny alpine nation whose 35,000 citizens would fill one-third of the University of Michigan football stadium. It has no airport, but supports 15 banks that together boast of holding more than \$200 billion in assets. Liechtenstein also boasts of secrecy laws that are more stringent than even those that have made Switzerland synonymous with hidden bank accounts.

The second bank is UBS, a Swiss bank. It is one of the world's largest financial institutions, the world's largest manager of private wealth, and a public company of international renown. Yet, as we will hear today, UBS has an estimated 19,000 so-called "undeclared accounts" for U.S. citizens with an estimated \$18 billion in assets that have been kept secret from the IRS.

Both LGT and UBS operate behind a wall of secrecy that this hearing and our report will show needs to come down. The evidence we have been able to obtain breaks through some of that wall of secrecy to show how these two banks have employed banking practices that facilitate, and have resulted in, tax evasion by U.S. clients.

I initiated this investigation into tax haven banks in February 2008, as a global tax scandal erupted after a former employee of LGT provided tax authorities around the world with data on about 1,400 people with accounts at LGT Bank in Liechtenstein. On February 14, 2008, German tax authorities, having obtained the names of 600-700 German taxpayers with LGT accounts, executed multiple search warrants and arrested a prominent businessman for allegedly using LGT accounts to evade \$1.5 million in taxes. Soon after, the IRS announced it had initiated enforcement action against 100 U.S. taxpayers in connection with accounts in Liechtenstein. The United Kingdom, Italy, France, Spain, and Australia made similar announcements on the same day. Altogether since February, nearly a dozen countries have announced plans to investigate taxpayers with Liechtenstein accounts, demonstrating not only

the worldwide scope of the tax scandal, but also a newfound international determination to fight against tax evasion facilitated by tax haven banks.

The former LGT employee who exposed LGT's dirty laundry had to go into hiding to avoid arrest by Liechtenstein which has listed him as its Number 1 target for arrest. A \$10 million reward has been placed on his head by unknown parties on the Internet. The Subcommittee obtained about 12,000 pages of LGT documents related to U.S. clients from this former LGT employee. We also interviewed him, and took his statement by videoconference, a tape of which, with precautions taken to obscure identifying details, will be presented during this hearing. His revelations are explosive.

The documents and information he provided depict a bank that is a willing partner, and an aider and bettor, to clients trying to evade taxes, dodge creditors, or defy court orders. Internal LGT documents and other information show secrecy was a deeply embedded way of life at the bank. LGT used code names for its clients and directed its bankers to use pay phones when contacting them. A LGT document instructed bankers trying to contact a client as follows: "CAUTION: Calls may be made only from public phone booths, preferably not from a FL [Liechtenstein] phone booth !!!" LGT set up secret, shell transfer corporations which clients could use to route money into and out of their LGT accounts, in order to, in the words of LGT "cover the tracks." LGT created elaborate, deceptive offshore structures, using foundations, trusts or corporations, to hide a client's ownership of assets from tax authorities in other countries.

Our report presents seven case studies of U.S. clients using LGT services. Due to time constraints, we will discuss only four today. In preparation for this hearing, the Subcommittee served subpoenas on three of the four LGT clients seeking their personal appearance: Shannon Marsh, William Wu, and Steven Greenfield. Two of those individuals, Mr. Marsh and Mr. Wu are here today. The third, Mr. Greenfield, has refused to appear after a subpoena was served on him, and we will be seeking enforcement of our subpoena. The fourth, Peter Lowy, left the country despite our request that he appear today. The Subcommittee notified his legal counsel that he would be subpoenaed to appear, if necessary. He has now agreed to appear before the Subcommittee at a continuation of this hearing a week from tomorrow.

Later in the hearing, when these individuals are called to give testimony, I will describe in more detail what we've learned about their Liechtenstein accounts, but for now I will mention each case history only briefly.

Shannon Marsh. Shannon Marsh is a son of the late James Albright Marsh, a U.S. citizen from Florida in the construction business who formed four Liechtenstein foundations in the 1980s, and transferred substantial funds to them. Two of these foundations were formed for him by LGT. By 2007, the assets in the four foundations had a combined value of \$49 million. LGT instructed the Marshes to use the code, "Friends of J.N.," when they wished to "get in touch." The Marsh accounts were never disclosed to the IRS by LGT.

William Wu. William Wu is a U.S. citizen who has lived for many years with his family in New York. LGT helped Mr. Wu hide ownership of his house in New York by helping him arrange a fake sale to an offshore company he secretly controlled. LGT also helped him withdraw substantial funds from his Liechtenstein account, ranging from \$100,000 to \$1.5 million at a time, in ways that made the funds difficult to trace.

Steven Greenfield. Harvey and Steven Greenfield, father and son, are New York businessmen who specialize in importing toys. In March 2001, in Liechtenstein, LGT held a five-hour meeting with the Greenfields attended by three LGT private bankers and Prince Philipp, Chairman of the LGT Board of Directors and brother to the sovereign of Liechtenstein. The meeting was primarily a sales pitch to convince the Greenfields to transfer to LGT about \$30 million from a Hong Kong bank after “leaving behind as few traces as possible.” Again, Mr. Greenfield has refused to appear despite service of a subpoena, so we will be pursuing this matter.

Peter Lowy. Peter Lowy lives in California. His father, with his sons’ help, set up an LGT foundation in 1998, after telling the bank that he did not want Australian tax authorities to know about the assets. LGT took measures to hide the Lowys’ ownership of the assets, including by keeping their name off the formation documents for the new foundation, routing incoming assets through an offshore transfer corporation to prevent a direct link to the new foundation, and using a Delaware corporation headed by Peter Lowy to name the beneficiaries. In 2001, the Lowys dissolved the foundation and moved to Switzerland assets totalling about \$68 million. Mr. Lowy will appear next week, on Friday, to answer questions about these matters.

The importance of these case studies is that they provide an inside look at what goes on behind the wall of secrecy that surrounds this Liechtenstein bank. And what does go on behind that wall? Banking practices that facilitate tax evasion – conduct that angers every honest American who pays taxes.

We have also managed to pierce some of the layers of Swiss secrecy that for too long have made Switzerland the place to bank for people with something to hide.

In late 2007, the Subcommittee took the deposition of Bradley Birkenfeld, who worked for more than 12 years as a private banker in Switzerland, including four years at the Geneva office of UBS. In 2008, Mr. Birkenfeld was charged and pled guilty to conspiring with a U.S. citizen, Igor Olenicoff, to defraud the IRS of \$7.2 million in taxes owed on \$200 million of assets hidden in secret accounts in Switzerland and Liechtenstein. In connection with this prosecution, the United States also detained as a material witness a senior UBS private banking official from Switzerland, Martin Liechti, then traveling on business in Florida. These enforcement actions appear to represent the first time that the United States has criminally prosecuted a Swiss banker for helping a U.S. taxpayer evade U.S. taxes. Mr. Liechti is here today, and I want to express my appreciation to the Justice Department and the U.S. Attorney for the Southern District of Florida for making him available.

Our report describes how Mr. Birkenfeld signed up Mr. Olenicoff as a client, in part by traveling to California from Switzerland to meet him, and opened UBS accounts for him in Switzerland in the name of offshore corporations Mr. Olenicoff controlled to hide his ownership of the assets. For a time, Mr. Olenicoff was Mr. Birkenfeld's largest client.

The details of their tax evasion scheme are sordid enough. But what Mr. Birkenfeld told the Subcommittee was that what he did as a private banker at UBS was ordinary practice. He told us about the thousands of Swiss accounts at UBS for U.S. clients holding billions in assets, all undeclared. He also described the pressure placed on the Swiss private bankers to bring new money into the bank from the United States, called "net new money." His deposition and other documents show that each year, UBS assigns each private banker an annual net new money target. A January 2007 email sent out by Mr. Liechti to the Swiss bankers in the Americas division wished them a happy new year, recounted how, in 2002, they had brought in 4 million Swiss francs per banker, how that number had quadrupled in two years to 17 million Swiss francs per banker in 2006, and then urged them to quadruple their efforts again in 2007 to bring in 60 million Swiss francs per banker in net new money from the United States.

Mr. Birkenfeld told us that Swiss bankers regularly traveled to the United States to target U.S. citizens for net new money. He told us how these Swiss bankers maintained a low profile, using business cards that did not mention "wealth management," sometimes declaring they were in the United States for non-business purposes, and carrying encrypted computers that, allegedly, even U.S. Customs agents couldn't read. A Subcommittee analysis of travel records supplied by Customs corroborate his testimony. The travel records show that about 20 UBS Swiss bankers made about 300 trips to the United States since 2003, often traveling together to UBS-sponsored functions designed to attract wealthy potential clients. These travel records also showed that some UBS private banking officials made regular U.S. visits, including Mr. Liechti who traveled to the United States up to eight times in a year. He described one Swiss banker who saw 30 to 40 clients on each U.S. visit. All this to sell Swiss secrecy on U.S. soil.

He also described UBS Swiss bankers who presented their clients with securities products and helped execute securities transactions here in the United States, without a broker-dealer license from the Securities and Exchange Commission. In response to Subcommittee inquiries, UBS also admitted that, like LGT, its bankers had set up foreign corporations to disguise the ownership of accounts by U.S. clients.

The Subcommittee even obtained a document showing that UBS provided its Swiss private bankers with training on how to detect surveillance by U.S. customs agents and law enforcement officers while traveling here. Think about that – a major international bank is training its bankers to detect surveillance by U.S. authorities.

UBS efforts targeting U.S. clients to open Swiss accounts were, in the words of Mr. Birkenfeld, a "massive machine." And the push to open Swiss accounts took place even though UBS had branch banking and securities operations in the United States that were large enough to accommodate all of its U.S. clients.

Which brings up a fundamental question. Why would a U.S. taxpayer open a UBS account in Switzerland, when it could bank with UBS right here in the United States? Why would 19,000 U.S. clients with nearly \$18 billion in assets choose to open Swiss accounts? It seems plain that part of the answer is that they wanted to open undeclared accounts that the IRS didn't know about. They wanted secrecy.

And UBS gave them secrecy. In November 2002, UBS sent a letter to all of its U.S. clients to reassure them that their secret Swiss accounts were still safely hidden, despite the Qualified Intermediary Program's going into effect. Here's what that letter said in part:

“Dear client:

From our recent conversations we understand that you are concerned that UBS' stance on keeping its U.S. customers' information strictly confidential may have changed.... We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised”

We all know what is going on here. U.S. clients who don't bank with UBS in the United States and instead bank with UBS in Switzerland are buying secrecy. And folks who buy secrecy have secrets they don't want to reveal, such as evasion of taxes, the ducking of creditors, or defiance of court orders. But those clients aren't the only ones relying on secrecy to cloak their actions. Banks in tax havens, including the two banks under examination today, are also covering up their own actions – actions they presumably didn't want to see exposed by media around the world.

This chart summarizes the Tax Haven Bank Secrecy Tricks we've uncovered during this investigation. Banks using code names for clients to disguise their identities; telling their bankers to use pay phones instead of business phones so authorities can't trace a call back to the bank; giving their bankers encrypted computers when they travel so tax authorities can't read any client information; funnelling money through so-called transfer companies to cover the tracks of the funds and make audits difficult; opening accounts in the names of foreign shell companies to hide the real owners; setting up fake charitable trusts for the same reason; providing bankers with counter-surveillance training – the list goes on. These tricks are all about deception, all about making it impossible for the IRS to follow the money, bring tax cheats to justice, and bring back into the U.S. treasury the tens of billions of dollars owed to Uncle Sam.

UBS has told the Subcommittee that it is changing its ways. It has banned travel by its Swiss bankers to the United States. It is encouraging U.S. clients to bank with UBS in the United States or at a subsidiary in Switzerland called Swiss Financial Advisors that requires all U.S. clients to disclose their accounts to the IRS. Liechtenstein tells us they are in negotiations with the United States to enter into a tax information exchange agreement and with its European neighbours to expand tax cooperation in connection with an anti-fraud agreement.

I hope it is true, but count me skeptical for a number of reasons. First, we haven't heard anything from LGT about reforms; it is not even here today, in contrast to UBS. Second, evading U.S. taxes is a billion dollar industry; it's gone on for decades; and the profits are huge,

both for the tax cheats and for the banks holding their assets. The documents and testimony that we are releasing today disclose a culture of secrecy and deception that we are determined to end, despite its being strongly entrenched.

Tax evasion eats at the fabric of society, not only by starving health care, education, and other needed government services of resources, but also by undermining trust – making honest folks feel like they are being taken advantage of when they pay their fair share.

Our report outlines a number of ways we can fight back to end tax haven abuses. Here are a few.

First, we should support the recent innovative enforcement actions taken by the Justice Department and IRS to prosecute foreign bankers who help U.S. taxpayers cheat Uncle Sam and to compel foreign banks to disclose the names of their U.S. clients.

Second, we ought to enact new tools to penalize tax haven banks that impede U.S. tax enforcement. Congress should give the Treasury Department authority to bar U.S. financial institutions from doing business with those banks, and the IRS should remove those banks from the Qualified Intermediary program that allows them to avoid disclosing the names of their non-U.S. clients to U.S. authorities.

Third, Congress should create a rebuttable presumption in enforcement proceedings that U.S. taxpayers who form, send assets to, or receive assets from a legal entity in an offshore secrecy jurisdiction controls that entity and is liable for taxation on its assets and income.

Fourth, Congress ought to change the law to require banks who know U.S. clients are behind accounts opened in the name of offshore entities to treat those accounts as U.S. accounts that have to be disclosed to the IRS.

And we can do all that and more by enacting the Stop Tax Haven Abuse Act, a bill that I and Senator Coleman introduced last year.

Right now, tax haven banks and tax haven governments dress up their secrecy laws and banking practices with phrases like “financial privacy” and “wealth management.” But secrecy breeds tax evasion. And secrecy hides, not only the wrongdoers, but also those who aid and abet the wrongdoing. We are determined to tear down those secrecy walls in favor of transparency, cooperation, and tax compliance.

I want to thank my Ranking Member, Senator Coleman, and his staff for their support of this investigation and the legislation to stop tax haven abuses.

Tax Haven Bank Secrecy Tricks

- **Code Names for Clients**
- **Pay Phones, not Business Phones**
- **Foreign Area Codes**
- **Undeclared Accounts**
- **Encrypted Computers**
- **Transfer Companies to Cover Tracks**
- **Foreign Shell Companies**
- **Fake Charitable Trusts**
- **Straw Man Settlers**
- **Captive Trustees**
- **Anonymous Wire Transfers**
- **Disguised Business Trips**
- **Counter-Surveillance Training**
- **Foreign Credit Cards**
- **Hold Mail**
- **Shred Files**