

**OPENING STATEMENT**  
**SENATOR NORM COLEMAN**  
**Ranking Minority Member**  
**Permanent Subcommittee on Investigations**  
***Tax Haven Banks and U. S. Tax Compliance***  
**July 17, 2008**

This morning, we return to a matter that is important to all American taxpayers: the role of foreign banks – particularly those in off-shore tax havens – in helping a disturbing number of wealthy Americans cheat on their taxes. At the outset, I want to express my appreciation to Senator Levin for his unwavering commitment throughout this effort. This has been a truly bipartisan investigation in every sense of the word. It would not have been possible to bring these important problems to light without your leadership, Mr. Chairman, and I thank you.

The problem we are confronting today is simple: tens of thousands of America's wealthiest citizens are using offshore secrecy jurisdictions to hide trillions of dollars and avoid paying their fair share of taxes. The offshore problem remains one of staggering proportions. These tax havens hold an estimated \$1.5 trillion in American assets, resulting in lost taxes of roughly \$100 billion. That's three times the size of the Minnesota state budget general fund – lost because of dishonest individuals and entities exploiting the secrecy of certain foreign countries.

In doing so, these privileged few are forcing honest American taxpayers to bear a disproportionate burden of investing in crucial areas like healthcare, homeland security, and education. That tax-loss sits like a millstone around the neck of honest American taxpayers, who are struggling with high taxes, ever-increasing gas prices, and rising healthcare costs.

But these crooked tax-cheats are not acting alone. Foreign banks in these offshore havens are enthusiastic partners in this deception. Hiding behind an impregnable fortress of secrecy laws, these banks have partnered with American tax-cheats to use offshore tax and secrecy havens to conceal ownership of assets and make sham transactions seem legitimate, while staying one step ahead of U.S. law enforcement and the IRS.

Over the course of the last year, the Subcommittee has engaged in a broad investigation into two of these banks: LGT Bank in Liechtenstein, and UBS AG in Switzerland. Both banks operate under strict secrecy laws, yet both banks enabled and promoted felony tax evasion, and sometimes even worse misconduct, like the bribery of American officials and others. The audacity and cleverness of the bankers we have examined are matched only by the zeal with which their American clients used their services.

Before we turn to the evidence, it's worthwhile to take a moment and review the relevant laws and rules to understand how the banks eagerly manipulated the regulatory and legal landscape to assist their tax-cheating clients. The key rules governing these foreign banks is called the Qualified Intermediary Program, or QI Program for short. The QI Program is intended to encourage foreign banks to assist the IRS collect taxes from overseas accounts by calling for contracts with the individual foreign banks. In short, contracts executed under the QI Program require the banks to report to the IRS when the accounts held by Americans have income derived from U.S. securities, and withhold the proper amount of taxes, sending that amount back to the United States.

In one sense, the QI Program has been quite effective: the IRS has been able to collect substantial taxes that it previously could not. But there was a loophole in these QI agreements, and these foreign banks drove a Mack truck right through it. Basically, while the QI agreements require the banks to reveal American accountholders with U.S. securities investments, the agreements do not require the reporting of accounts that are held by non-US citizens or entities.

So what did the banks do? They encouraged their American clients to form shell companies and trusts in jurisdictions with strict secrecy laws, helped them open accounts in the names of those trusts and companies, and then assisted them in shifting millions of dollars from accounts in their names to accounts in the names of the foreign entities. In doing so, these banks turned a blind eye to the fact that there was no legitimate reason for these maneuvers.

In his opening statement, Senator Levin highlighted the findings of our Subcommittee, as set forth in the bipartisan staff report we've issued to accompany this hearing. The case studies related to LGT are as appalling in their brazenness as they are disturbing in their commonality:

- A family falsely hiding nearly \$50 million in trusts for decades.
- Another family moving funds from one shell corporation to another to yet another in a chain of transfers that was clearly designed for one reason: to avoid paying taxes.
- A family meeting with the royal family of Liechtenstein with the express purpose – in their words – of hiding the traces.
- The brazen facilitation of bribery here in the United States by Marc Rich and his affiliates.

Sadly, the list goes on, and on, and on. What's worse, LGT was not alone. UBS engaged in parallel misconduct. In short, soon after joining the QI Program, UBS undertook a systematic, wide-ranging effort to harvest tax cheats from the United States, help them restructure their Swiss accounts to avoid paying taxes on billions of dollars, and surreptitiously evade the attention of federal law enforcement agencies.

To be clear, our focus is on UBS' operations out of Switzerland. UBS has a large number of personnel based here in the United States, including in Minnesota, and they, like us, are surely appalled at what the Subcommittee has uncovered. Those people are not part of the misconduct we examine here today, nor do we suggest in any way that they are involved in these activities.

Moreover, we should note that UBS has been cooperative with the Subcommittee's investigation and has been responsive to its requests. UBS is also appearing today voluntarily, and not under compulsion of subpoena. I find it significant that, while UBS did not necessarily have to send a knowledgeable witness from Switzerland, it chose to do so, which stands in stark contrast to LGT's refusal to appear before us today.

The results of the Subcommittee's investigation are striking. The evidence reveals that the banks engaged in highly suspicious activities designed to hide the identities of their clients, including using code words, encrypted computers designed to thwart U.S. Customs officials, shell companies and trusts strewn around the world, and techniques to avoid surveillance by law enforcement. Some of the activities sound like the cloak-and-dagger deception in a James Bond movie.

It's bad enough if the banks were simply enabling tax crimes. But the problem is far worse and more pervasive than a mere see-no-evil acceptance of tax fraud. Our investigation has found that the banks have left their secrecy fortresses and furtively entered the United States to recruit and service thousands upon thousands of tax-cheats. Driven by a desire to service their clients' desires, regardless of legality, these banks actively promote and cultivate this conduct day after day. They didn't just facilitate this misconduct, they *orchestrated* it. That must stop and it must stop now.

So, the question is how do we fix this problem? The Subcommittee has offered a number of recommendations. First, Congress should pass the Stop Tax Haven Abuse Act, which is comprehensive legislation that Senator Levin and I introduced, along with Senator Obama. It would go far to stop offshore tax haven and tax shelter abuses by shining a light in the dark world of secrecy jurisdictions. We must also change the laws and regulations, which permit banks in tax havens to fulfill their contractual obligations to the IRS, even though they are facilitating criminal conduct. We must also improve the QI Program, by strengthening reporting requirements for those QI banks and expanding the audit process. We must also bolster our law enforcement activities and increase the statute of limitations for activities involving tax havens.

To be clear, foreign investment is vitally important to the United States. Such investments are critical to job growth and opportunity expansion, and are undeniably necessary for the economic well-being of our citizens. Nor is our focus here today on U.S. companies investing abroad, which bolsters our competitiveness in the increasingly global economy. To the contrary, our inquiry is focused on individual U.S. taxpayers who cheated the system with the active assistance of offshore banks.

There may indeed be valid reasons for holding accounts off shore, such as Americans living and working abroad, or those with families in other countries with political or economic instability. These persons, when they file the appropriate documents with the IRS and pay their fair share of taxes, have nothing to fear from this inquiry.

I want to close, however, by speaking directly to those who *should* be worried: those Americans, and their attorneys and financial enablers, who have gone offshore to dodge their taxes, escape our courts, or worse. Our message is simple: you are hurting this country. Millions of Americans struggle with bills and mortgages, pay for gas and health care, educate their children, and care for their loved ones. Hundreds of thousands of your fellow Americans protect us – both here and at war abroad – making unimaginable sacrifices on behalf of their country. By cheating on your taxes, you are forcing those people to carry even more weight on their sagging shoulders. You, the tax cheats, are not being asked to suffer as they are. You, the tax cheat, are not being asked to struggle with your daily bills and mortgages and gas prices and medical bills. You are simply being asked to pay your fair share to the country whose freedoms you enjoy so richly.

Listen closely to what we have uncovered in this investigation. Come forward and stop hiding. In one document, a foreign banker advised his American client to stop engaging in certain transactions, so that the American authorities would not catch him. He said boldly – and I quote – “let sleeping dogs lie.” Well, the dogs are no longer sleeping.

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