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Telling Swiss secrets: A banker's betrayal

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Subhead:

Part 1: A UBS insider blows the whistle on Swiss banking.

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Caption:

(Photo illustration from photograph by Gasper Tringale)

NEW YORK — It's the inner sanctum of Swiss banking — the heavily-guarded nexus between numbered Swiss bank accounts and their owner's good names — and it's the rare American that is allowed entry.

Bradley Birkenfeld was one of the few Americans who held the keys to the kingdom. A Boston-born, high-flying, cross-border banker at Switzerland's premier financial institution, UBS, he had access to the kind of secret account information that American law enforcement had only dreamed of through all the decades that terrorists, dictators, arms dealers, mafia dons and wealthy tax cheats had hidden behind the fortress of secrecy that Swiss banking promised.

Subterranean bomb-proof vaults and state-of-the-art security systems are the superficial trappings of Swiss banking and its culture of secrecy, but the cornerstone of protection for its clients is the numbered account system that offers all but foolproof privacy. Or so they thought.

For five years as a Geneva-based UBS bank director, 45-year-old Bostonian Bradley Birkenfeld lived the well-heeled life of an insider in the secret world of Swiss banking. That is, before he set out to break the bank. In an exclusive series of

At UBS, clients' names and their account information are divided irreconcilably between separate computer servers in secret

interviews with Birkenfeld, GlobalPost reveals how he blew the whistle on Swiss banking's rarefied world of secrecy and subterfuge, a scandal that is still reverberating around the globe. Birkenfeld believes he's a hero for exposing world-class tax evasion, but the judge in his case didn't see it that way. And now Birkenfeld is speaking out.

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locations. Even for a world-class hacker with free roam of electronic bank records, identifying the owner of a numbered account is literally "Mission: Impossible." Nowhere do names and numbers appear side-by-side.

At vaunted UBS, the only seam of vulnerability resided in nothing more advanced than the kind of old-school card catalog you might find in a local library.

At the start of business each morning, private bankers like Birkenfeld, then a director in the

wealth management division of UBS, would check in at combination vaults to pull their "racks" — wooden trays of 4x5 paper index cards that are the Achilles heel of Swiss secrecy. Printed on each confidential client card — in plain, unencrypted typeset — is the client's name, account and safety deposit box numbers, the fees paid, and home addresses and unique passwords — secret challenge phrases known only to the banker and the client that are used to verify identity on the phone ("Rose and Eagle" on a surreptitiously photocopied card Birkenfeld showed me).

"If I was really devious ... I would have just taken my gym bag, slid them in, walked out the door, hopped on a plane," Birkenfeld laughed during our interview.



Bradley Birkenfeld
(Gasper Tringale/GlobalPost)

He'd have saved himself a whole lot of trouble if he had: 48 hours after our interview, the burly, energetic, balding banker with a high-pitched Boston lilt and trace goatee was due to report to federal prison in Pennsylvania, the last stop in a long, dangerous dance with U.S. prosecutors.

June 2007 found a wary Bradley Birkenfeld at the Geneva airport about to hop a plane. He didn't have the client cards, but he had taken plenty of other incriminating UBS documents upon quitting his position as a bank director the year before: emails, training manuals, PowerPoint presentations, and phone lists that detailed the mechanics of a massive fraud.

He had already begun to transfer some of the materials to private attorneys in Washington. Now, he was on his way to meet them in person.

As Birkenfeld moved through the terminal, he glanced at his \$50,000 Audemars Piguet wristwatch — one of only 750 made, as he liked to point out — but mostly he was looking over his shoulder.

"I assumed they were watching me," he said of his former UBS bosses, a fair assumption

given that the UBS's wealth management chiefs were themselves well versed in subterfuge. The bank had held training sessions for cross-border bankers on how to elude FBI and U.S. Customs scrutiny when traveling with sensitive bank documents; how to obscure client information on PDAs and encrypted laptops; and various other evasive trade craft not usually associated with honest banking. Birkenfeld had the pilfered PowerPoints to prove it.

Hoping now to play for the other side, Birkenfeld was operating in a state of studied paranoia. Though his actual destination was Washington, where his lawyers had arranged for him to meet with prosecutors from the criminal enforcement section of the tax division at the Department of Justice, the airline ticket he held connected through Zurich to Boston; he'd buy a separate ticket to D.C. when he arrived stateside.

Meanwhile, the DOJ lawyers were not told Birkenfeld's name, nor the name of the bank he worked for, prior to the meeting — only that they could expect a smoking gun: "Trust me, you will like this case," Birkenfeld's attorney wrote in an email to the government lawyers. "Probably lots of foreign travel to Switzerland, etc."

The information Bradley Birkenfeld eventually provided — first to the DOJ, then to investigators from the IRS, SEC, Department of Treasury and U.S. Senate — would set off cascading criminal and civil investigations into UBS. Within two years, it would bring down UBS' entire U.S. cross-border banking division and compel intensive negotiations between the highest levels of the American and Swiss governments.

The bank would admit to intentionally subverting U.S. tax laws and defrauding the U.S. government by sending dozens of unregistered bankers, Birkenfeld among them, to the United States on thousands of illegal trips to facilitate tax evasion schemes for wealthy U.S.-based clients — a fraud hiding as much as \$20 billion in secret undeclared accounts and earning UBS up to \$200 million a year in ill-begotten profits.

To avoid criminal prosecution, and potential ruin, the bank would agree to pay a \$780 million fine and, most controversially, agree to turn over names of thousands American account holders to the IRS, a betrayal on par with original sin in Switzerland. The move was approved by the Swiss parliament in June, clearing the way for the release of the documents and what could be thousands of pending cases.

Eventually, the Swiss government itself would bow under the weight of the evidence accumulated against UBS and, in high-level settlement discussions with the U.S. State Department, concede to new treaty terms to prevent Switzerland's leading bank from losing its licenses to do business in the U.S.

Meanwhile, the investigations sent nearly 15,000 American tax offenders, the vast majority with undeclared UBS accounts, into the arms of a new IRS amnesty program, agreeing to pay billions in back taxes and fines to avoid prosecution themselves.

"This blows a big hole in bank secrecy," IRS Commissioner Doug Shulman crowed as the settlement was announced last August. "As long as there's been income tax, we've had no access to secret bank accounts in Switzerland, and because of our focused and concentrated efforts we're now changing that whole dynamic."

But the real game-changer, everybody in the banking world knew, was not IRS initiative: it

was Bradley Birkenfeld.

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“Birkenfeld must be considered among the biggest whistle-blowers of all time,” wrote the editors of *Tax Notes*, the arcane but influential industry journal, in a column naming Birkenfeld its “Person of the Year” for 2009. “He single-handedly made 2009 the year in which the world finally got serious about cracking down on tax evasion.”

Never in UBS’ 150-year history had an insider turned on the bank, and the betrayal has now reportedly opened the doors to justice department scrutiny of the Swiss operations of Credit Suisse and HSBC. Germany is also armed with insider information and on the offensive against tax evasion, German police officers, prosecutors and tax inspectors raided all of Credit Suisse’s offices and branches in the country in mid July.

It seems the era of secrecy in Swiss banking is ending and Birkenfeld had everything to do with that.

Birkenfeld received letters from Sen. Carl Levin and investigators at the Department of Treasury and the Securities & Exchange Commission acknowledging his contribution, but it was Kevin Downing, the DOJ attorney who spearheaded the criminal investigation against UBS, who was the most emphatic.



Bradley Birkenfeld
(Gasper Tringale/GlobalPost)

“I will say that without Mr. Birkenfeld walking into the door of the Department of Justice in the summer of 2007, I doubt as of today that this massive fraud scheme would have been discovered by the United States Government,” Downing said in federal court last August at a sentencing after Birkenfeld pleaded guilty to one count related to his relatively minor role in the fraud. The praise was reiterated in Downing’s brief to the court: “Defendant Birkenfeld has provided substantial assistance in the investigation and prosecution of others who have committed offences,” he wrote. “This substantial assistance has been timely, significant, useful, truthful, complete, and reliable.”

Less than 15 minutes later, however, in a switch that stunned most everyone in the courtroom, Downing suddenly turned on his star informant.

“We are seeking jail time,” he told Judge William Zloch of the U.S. Southern District, something almost unheard of in a case like this (whistle-blowers are rarely prosecuted, let alone sent to jail). Continuing, he accused Birkenfeld of trying to game the Justice Department, plotting a complex fraud even while cooperating with government prosecutors.

In short order, Judge Zloch sentenced Birkenfeld to three years and four months in federal prison — far harsher than the slap on the wrist one might expect in a whistle-blower case. News footage shows a shaken Birkenfeld literally running from the courthouse. (His sentence did not begin immediately).

Many who had followed the case were outraged. “[UBS whistle-blower Bradley Birkenfeld deserves statue on Wall Street, not prison sentence](#) [6],” blared the headline in the New York Daily News. “[Why is the UBS whistle-blower headed to prison](#) [7]?” asked Time magazine. The National Whistleblowers Center in Washington, which took up Birkenfeld’s case, called on President Barack Obama to pardon him.

As his Jan. 8 report date for prison drew near, however, there was no presidential pardon, and a last-ditch appearance on 60 Minutes failed to win Birkenfeld sympathy from Judge Zloch, who tossed aside a final motion to delay Birkenfeld’s imprisonment.

In an age of stomach-turning Goldman bonuses and ungodly federal bank bailouts, it’s tough to empathize with a sometimes hot-headed former high-flier in a \$2,000 suit — especially one whose motives would emerge as complicated, and self serving. But Birkenfeld isn’t asking people to like him; he just wants us to see the forest for the trees.

Sitting for our full-day interview in a suite at a Boston hotel on the eve of his long drive to the Schuylkill Federal Corrections Institution near Minersville, Pennsylvania, Birkenfeld seemed sad but defiant. “I took on the biggest bank in the world and brought them down, and I took on the biggest government in the world and exposed their corruption, and I’m being rewarded with jail,” he said, squinting his deep blue eyes. Still, he added, “I would do it again.”

Part 2: Feeding the UBS obsession with North American wealth. [2]

Michael Bronner, a New York-based investigative journalist, previously worked for the weekday edition of CBS News/60 Minutes. He has been a freelance contributor to Vanity Fair since 2005. A screenwriter, producer and director, he was also a co-producer on the Universal Pictures/Working Title feature film “Green Zone” about Iraq and an associate producer on the Oscar-nominated “United 93.”

Editor's note: The subheadline of this story was updated.

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