Private Wealth

Swiss Bank Wegelin & Co. Pleads Guilty In U.S. Tax Probe
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Wegelin & Co., Switzerland's oldest private bank, pleaded guilty to helping U.S. taxpayers hide assets from the Internal Revenue Service and may pay U.S. authorities as much as $74 million.

Otto Bruderer, a managing partner at the St. Gallen-based bank, entered the plea today to one count of conspiracy in Manhattan federal court. Wegelin in February became the first Swiss lender indicted in a crackdown on offshore firms suspected of helping Americans evade taxes.

"From about 2002 through about 2010, Wegelin agreed with certain U.S. taxpayers to evade the U.S. tax obligations of these U.S. taxpayer clients, who filed false tax returns with the IRS," Bruderer, reading from a statement, told U.S. District Judge Jed S. Rakoff.

Under a proposed plea agreement, the bank will pay $20 million in restitution to the U.S., forfeit $15.8 million that represents fees on undeclared accounts and pay a fine of more than $22 million. The agreement requires Rakoff's approval. Sentencing is set for March 4.

Taken together with the $16.2 million Wegelin forfeited from a U.S. correspondent bank account in April, the government would receive a total of about $74 million, Manhattan U.S. Attorney Preet Bharara said today in a statement.

'Symbolic Significance'

"It has an important symbolic significance in that you have a bank that has no branches in the United States, but the U.S. government was able to reach them and get them to plead guilty," said Robert Fink, a tax attorney at Kostelanetz & Fink LLP in New York. "It puts other banks on notice as to the long arm of the U.S. law."

Prosecutors said that more than 100 U.S. taxpayers conspired with Wegelin and with Swiss bankers Michael Berlinka, Urs Frei and Roger Keller to hide income from the IRS. The individual defendants, who live outside the U.S., were first indicted in January 2012 and haven't appeared in court to answer the charges. The bank held more than $1.2 billion in assets not declared to the IRS, according to the indictment.

Ex-UBS Clients

The U.S. said Wegelin and the three bankers wooed U.S. clients fleeing UBS AG, the largest Swiss bank. UBS avoided U.S. prosecution in 2009 by admitting it aided tax evasion, paying $780 million and handing over data on 250 accounts. It later disclosed information on about 4,450 more accounts.

By attracting ex-UBS clients, Wegelin opened new undeclared accounts for at least 70 U.S. taxpayers, according to the indictment. Most of those accounts were given an internal code of "BNQ," indicating the accounts were undeclared.

"Wegelin became a haven for U.S. taxpayers seeking to circumvent the tax code by hiding their money in secret offshore accounts, and the bank willfully and aggressively jumped in to fill a void that was left when other Swiss banks abandoned the practice due to pressure from U.S. law enforcement," Bharara said.

Top Management

The effort to woo UBS clients was backed by Wegelin's senior management, according to the indictment.

Earlier in the case, Wegelin declined to answer the charges or appear in court, prompting Rakoff to declare the bank a "fugitive."

"The Justice Department is sending a message that not every bank gets a deferred-prosecution agreement," said Larry Campagna, a Houston tax attorney at Chamberlain, Hrdlicka, White, Williams & Aughtry. "A deferred-prosecution agreement essentially says that if you keep your nose clean going forward, we won't prosecute you for what you did in the past."

The U.S. and Switzerland are in talks to resolve a U.S. probe of offshore tax evasion. Wegelin was one of at least 11 banks under criminal investigation by the Justice Department's tax division.

New Owner

Wegelin, founded in 1741, which had $25 billion in assets in December 2010, announced on Jan. 27 that it agreed to a sale to Switzerland's Raiffeisen Group. In the announcement, Wegelin said any liability for the firm's U.S. business would remain with the current partners. Wegelin didn't disclose the sale price.

"Wegelin believed that, as a practical matter, it would not be prosecuted in the United States for this conduct because it had no branches in the United States and because of its understanding that it acted in accordance with, and not in violation of, Swiss law and that such conduct was common in the Swiss banking industry," Bruderer told Rakoff in today's hearing.

The case is U.S. v. Wegelin, 12-cr-00002, U.S. District Court, Southern District of New York (Manhattan).