

Carter Ledyard Obtains Non-Prosecution Agreement and Zero Penalty for Swiss Bank

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Following the disclosure by UBS and other Swiss banks of previously secret account information in and after 2010 for thousands of U.S. citizens who had used the accounts to evade U.S. income taxes, the Department of Justice and the IRS in 2013 established a program to permit Swiss banks the opportunity to secure non-prosecution agreements in exchange for their cooperation in identifying their U.S. clients who may have engaged in tax evasion. Additionally, in order to avail themselves of the program, the banks had to commit to paying substantial penalties based upon the amount of tax evaded by their clients. As reported on DOJ's website, the typical penalty for Swiss banks participating in the program is millions or hundreds of thousands of dollars.

Carter Ledyard's client, Lugano-based private Banca Intermobiliare di Investimenti e Gestioni (Suisse) SA, also known as BIM Suisse, has just become the first Swiss bank to be given a non-prosecution agreement with a zero dollar penalty. CL&M's team, headed by white-collar co-chair, Michael Shapiro, was able to demonstrate to the satisfaction of the DOJ and IRS that BIM Suisse's U.S. clients had either always been U.S. tax compliant or had become so under pressure from the Bank prior to the establishment of the program. In the Statement of Facts accompanying the Non-Prosecution Agreement the DOJ acknowledges that "[b]eginning in September 2007, BIM Suisse adopted measures to avoid facilitating U.S. tax evasion..." and "[I]n 2009, the Bank further strengthened its compliance policies." DOJ notes that as of July 2015 none of the Banks U.S. accounts remain undisclosed to the U.S. tax authorities.

CL&M is gratified to have been able to shepherd BIM Suisse to such a favorable and unique resolution of its participation in the DOJ Swiss bank program.

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