

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED

UNITED STATES OF AMERICA,

2011 SEP 27 P 3 37

Plaintiff,

JON A. SANFILIPPO

v.

Case No. 2:11-cr-135-ONE N  
CLERK

ARVIND AHUJA,

[18 U.S.C. § 371]  
[26 U.S.C. § 7206(1)]  
[31 U.S.C. §§ 5314 & 5322]

Defendant.

**SUPERSEDING INDICTMENT**

**THE GRAND JURY CHARGES:**

**COUNT ONE**

**(Conspiracy to Defraud the United States)**

At all times relevant to this Indictment, unless otherwise indicated:

**Background**

1. The Internal Revenue Service (“IRS”) was an agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United States by its citizens.
2. United States citizens had an obligation to report to the IRS on Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether that individual had a financial interest in, or signature authority over, a financial account in a foreign country in a particular year by checking “Yes” or “No” in the appropriate box and identifying the country where the account was maintained. United States citizens had an obligation to report all income earned from foreign financial accounts on the tax return and to pay the taxes due on that income.

3. United States citizens who had a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year were required to file with the Department of the Treasury a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 (the “FBAR”). An FBAR identified, among other things, the name of the financial institution at which the account was held, the account number, and the maximum value of the account during the calendar year. The FBAR for the applicable year was due by June 30 of the following year.

4. An “undeclared bank account” was a financial account maintained in a foreign country that was not reported to the United States government on a tax return and an FBAR.

5. The Bailiwick of Jersey (“Jersey”), a British Crown dependency located in the Channel Islands off the coast of Normandy, France, was a tax haven, meaning that its institutions and laws, including bank secrecy laws, were intended to conceal financial information from other countries.

#### **Entities**

6. The Hongkong and Shanghai Banking Corporation Limited was one of the largest international banks in the world and was headquartered in London, England. It maintained over 9,800 offices in 77 countries and territories throughout the world, including in India (“HSBC India”), Jersey (“HSBC Jersey”), and the United States (“HSBC USA”).

7. HSBC India operated a division in the United States called NRI Services that marketed offshore banking services to U.S. citizens of Indian descent. Through its NRI Services division, HSBC India encouraged U.S. citizens to open undeclared bank accounts in India. HSBC India operated a Representative Office in New York, New York, to provide services to clients of its NRI Services division.

8. HSBC offered Premier bank accounts to select customers that enabled those customers to access their accounts online and to obtain credit and debit cards linked to their accounts.

**The Defendant**

9. The defendant, ARVIND AHUJA (“AHUJA”), was a United States citizen of Indian descent living in Greendale, Wisconsin. AHUJA was a board-certified neurosurgeon.

10. In or about the early 2000s, the exact date being unknown to the grand jury, AHUJA opened and caused to be opened undeclared bank accounts at HSBC India, including one or more Premier accounts.

11. In or about the early 2000s, the exact date being unknown to the grand jury, AHUJA opened and caused to be opened a Premier bank account at HSBC USA, which he used to wire transfer millions of dollars from the United States to his HSBC India accounts.

12. During calendar years 2006 through 2009, the high balances in AHUJA’s HSBC India accounts were the following approximate amounts:

<b>Year</b>	<b>High Balance</b>
2006	\$5,343,247
2007	\$8,695,095
2008	\$8,416,363
2009	\$8,733,785

13. During calendar years 2006 through 2009, AHUJA invested the funds in his HSBC India accounts in certificates of deposit, which earned interest income in the following approximate amounts:

<b>Year</b>	<b>Interest Income</b>
2006	\$191,365
2007	\$355,797
2008	\$385,594
2009	\$293,448

14. AHUJA opened or caused to be opened an undeclared Premier account at HSBC Jersey, and utilized credit and debit cards to access the funds in the account.

**Certain Co-Conspirators**

15. BANKER # 1 was employed by HSBC India in its NRI Services division as Vice President of NRI Services, North America. In that capacity, BANKER # 1 served as a liaison between HSBC India and existing and prospective customers of HSBC India's NRI Services business in the United States. BANKER # 1 worked at the NRI Services Representative Office in New York, New York.

16. BANKER # 2 was employed by HSBC India in its NRI Services division as an Assistant Vice President of NRI Services, North America, and later as Vice President of NRI Services, North America. BANKER # 2 worked at the NRI Services Representative Office in New York, New York.

**The Conspiracy**

17. From in or about the early 2000s, the exact date being unknown to the grand jury, and continuing up to and including the date of this Superseding Indictment, in the State and Eastern District of Wisconsin and elsewhere, the defendant,

ARVIND AHUJA

did knowingly and willfully conspire and agree with others, known and unknown to the Grand

Jury, to defraud the United States by impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS of the Treasury Department in the ascertainment, computation, assessment, and collection of federal income taxes, and in the collection of information relating to foreign financial accounts.

#### **Object of the Conspiracy**

18. It was the object of the conspiracy that AHUJA and his co-conspirators would conceal from the IRS the existence, ownership, and income derived from AHUJA's undeclared bank accounts at HSBC India and HSBC Jersey.

#### **Means and Methods of the Conspiracy**

19. It was part of the conspiracy that AHUJA opened undeclared bank accounts at HSBC in Jersey, India, and other countries for the purpose of concealing income from the IRS.

20. It was further part of the conspiracy that employees of HSBC, including BANKER # 1 and BANKER # 2, assisted AHUJA in the maintenance of his undeclared bank accounts.

21. It was further part of the conspiracy that AHUJA directed HSBC India that all correspondence related to his undeclared HSBC India accounts be mailed to an address in India rather than to his residence in Greendale, Wisconsin.

22. It was further part of the conspiracy that AHUJA used his HSBC USA account to wire transfer funds to his undeclared accounts at HSBC India.

23. It was further part of the conspiracy that BANKER # 2 assisted AHUJA in depositing funds into, and withdrawing funds from, his undeclared HSBC accounts.

24. It was further part of the conspiracy that AHUJA, with the assistance of BANKER # 1 and BANKER # 2, obtained credit and debit cards linked to his undeclared accounts at HSBC

India and HSBC Jersey for the purpose of using the funds in those accounts.

25. It was further part of the conspiracy that AHUJA used funds from his undeclared HSBC accounts to make investments in India and to open other undeclared financial accounts in India.

26. It was further part of the conspiracy that AHUJA failed to inform his accountant that he maintained bank accounts in India and Jersey.

27. It was further part of the conspiracy that AHUJA filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, with the IRS that concealed his ownership and control of undeclared accounts in India and Jersey, as well as the income earned from these accounts.

28. It was further part of the conspiracy that AHUJA failed to file FBARs with the Department of the Treasury with respect to his undeclared bank accounts at HSBC India and HSBC Jersey.

#### **Overt Acts**

29. In furtherance of the conspiracy and in order to effect the object thereof, AHUJA and his co-conspirators committed and caused to be committed the following overt acts in the State and Eastern District of Wisconsin and elsewhere:

#### **Deposits to and Withdrawals from Foreign Accounts**

a. On or about the dates set forth below, AHUJA wire transferred, or caused to be wire transferred, the following amounts of funds from his HSBC USA account to his HSBC India accounts, with the accompanying descriptions:

<b>Date of Transfer</b>	<b>Amount</b>	<b>Description</b>
November 7, 2005	\$1,000,000	HSBC India's Account XXX-XX417-2
January 31, 2007	\$500,000	HSBC New Delhi India
March 16, 2007	\$500,000	HSBC New Delhi
July 30, 2007	\$400,000	HSBC New Delhi
November 7, 2007	\$500,000	HSBC New Delhi India
February 11, 2008	\$500,000	HSBC Bank, Swift
April 17, 2008	\$500,000	HSBC New Delhi India
June 17, 2008	\$750,000	HSBC India's Account No. XXX-XX417-2

b. On or about January 9, 2008, AHUJA directed HSBC India to send 5,130,559 rupees from one of his undeclared HSBC India accounts to a third party for the purpose of investing in real estate in India.

c. On or about February 7, 2008, AHUJA, with the assistance of BANKER # 2, directed HSBC India to send 10,000,000 rupees from one of his undeclared HSBC India accounts to an undeclared bank account he maintained at Housing Development Finance Corporation Limited in India.

d. On or about March 13, 2008, AHUJA, with the assistance of BANKER # 2, directed HSBC India to send 20,000,000 rupees from one of his undeclared HSBC India accounts to an undeclared financial account he maintained at Oxus Fund Management in India.

e. On or about August 2, 2008, BANKER # 2 contacted other employees of HSBC to arrange for AHUJA to withdraw cash from his undeclared HSBC Jersey account during a visit to London, England.

f. On or about October 6, 2009, AHUJA arranged for a relative to withdraw 2,837,000 rupees in cash on his behalf from his undeclared HSBC India account.

**Bank Statements**

g. On or about January 4, 2006, BANKER # 1 arranged to have a bank statement for AHUJA's undeclared HSBC Jersey account faxed to AHUJA's residence in the United States.

h. On or about May 8, 2007, BANKER # 2 informed another HSBC India employee that AHUJA "has requested that he does not want any kind of mail at his US or India address. He wants a HOLD on all his accounts . . . he does not wish to receive any mail."

i. On or about May 13, 2008, BANKER # 2, in reference to bank statements for AHUJA's undeclared HSBC India accounts, wrote an email to an HSBC India employee stating: "One statement has been delivered directly to the customer and the other has been delivered to Fremont California?? Why?? I had clearly asked that the statements need to come to me at the NRI centre in NY."

j. On or about August 21, 2008, AHUJA, using a letter prepared for him by BANKER # 2, requested that all correspondence regarding his undeclared HSBC India accounts be sent to a relative in New Delhi, India.

k. On or about September 10, 2008, BANKER # 2 alerted another HSBC India employee that AHUJA had received bank statements at his residence in the United States even though he had directed that all statements be sent to an address in New Delhi, India.



### **Credit and Debit Cards**

l. On or about July 8, 2005, BANKER # 1, in response to a request from AHUJA, arranged for AHUJA's HSBC Jersey credit card bill to be paid with funds from his undeclared HSBC Jersey bank account and for the credit limit to be increased.

m. On or about October 5, 2005, BANKER # 1, in response to a request from AHUJA, contacted an HSBC employee to request that the credit limit on the credit card linked to AHUJA's undeclared HSBC Jersey account be increased to \$20,000.

n. From on or about November 6, 2006, through on or about November 8, 2006, BANKER # 1 and BANKER # 2 assisted AHUJA in obtaining credit and debit cards linked to his undeclared HSBC Jersey account.

o. On or about November 17, 2006, BANKER # 1 emailed AHUJA to inform him that, as AHUJA requested, "the credit card pins would be delivered to the UK address."

p. On or about January 12, 2010, BANKER # 2 arranged for HSBC India to issue to AHUJA debit cards linked to AHUJA's undeclared HSBC India accounts.

### **Account Management**

q. On or about April 23, 2007, BANKER # 2 contacted another HSBC employee to obtain account balance information for AHUJA's undeclared HSBC Jersey account.

r. On or about June 12, 2008, BANKER # 2 wrote an email to another HSBC India employee stating: "One of our largest NRI client, Dr. Arvind Ahuja, is keen to send in half to one million dollars over the next few days. He wants a rate of 9.5% for 2 years. Would be nice if you can advise if thats possible."

s. On or about July 24, 2008, AHUJA submitted a letter to BANKER # 2, which BANKER # 2 forwarded to HSBC USA, directing the bank to close defendant AHUJA's HSBC USA account and issue him a check for the balance in the account.

t. On or about August 21, 2008, BANKER # 2 provided AHUJA with a letter that AHUJA could sign and submit to HSBC India to obtain a check book that did not have the word "NRI" printed on it.

u. On or about September 21, 2009, AHUJA submitted a letter to BANKER # 2, which BANKER # 2 forwarded to HSBC Jersey, directing HSBC Jersey to close AHUJA's undeclared account and courier the funds to his residence in Greendale, Wisconsin.

v. On or about November 23, 2009, AHUJA, with the assistance of an HSBC India employee in New York, New York, caused the funds from his undeclared HSBC Jersey account to be deposited in his undeclared HSBC India account.

#### **False Tax Returns**

w. On or about April 16, 2007, AHUJA filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for calendar year 2006, on which he failed to report his HSBC India and HSBC Jersey accounts and related income.

x. On or about April 15, 2008, AHUJA filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for calendar year 2007, on which he failed to report his HSBC India and HSBC Jersey accounts and related income.

y. On or about April 28, 2009, AHUJA filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for calendar year 2008, on which he failed to report his HSBC India and HSBC Jersey accounts and related income.

z. On or about April 15, 2010, AHUJA filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for calendar year 2009, on which he failed to report his HSBC India and HSBC Jersey accounts and related income.  
All in violation of Title 18, United States Code, Section 371.

**COUNTS TWO THROUGH FIVE**  
**(Subscribing to False Individual Tax Returns)**

30. The allegations of paragraphs 1 through 14 are restated as if fully alleged herein.

31. On or about the filing dates set forth below, in the State and Eastern District of Wisconsin, and elsewhere, the defendant,

**ARVIND AHUJA,**

did willfully make and subscribe U.S. Individual Income Tax Returns, Forms 1040, for the calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by the written declaration of AHUJA that they were made under penalties of perjury, and which returns AHUJA did not believe to be true and correct as to every material matter, in that AHUJA: (a) failed to report on Lines 8a, 9a, and 22 income received by him in one or more bank, securities, and other financial accounts located in India and Jersey; and (b) failed, on Schedule B, Part II, line 7a, to report that he had an interest in, or a signature or other authority over, bank, securities, and other financial accounts located in India and Jersey, whereas, in fact, and as AHUJA well knew and believed, he had received substantial income in one or more financial accounts located in India and Jersey, and had an interest in, or a signature or other authority over, bank, securities, and other financial accounts located in India and Jersey:

<b>Count</b>	<b>Calendar Year</b>	<b>Approximate Date of Filing</b>
Two	2006	April 16, 2007
Three	2007	April 15, 2008
Four	2008	April 28, 2009
Five	2009	April 15, 2010

All in violation of Title 26, United States Code, Section 7206(1).

**COUNTS SIX THROUGH NINE**  
**(Willful Failure to File FBARs)**

32. The allegations of paragraphs 1 through 14 are restated as if fully alleged herein.

33. On or before the due dates listed below, in the State and Eastern District of Wisconsin, and elsewhere, the defendant,

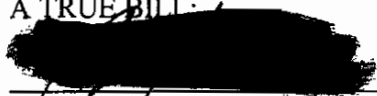
**ARVIND AHUJA,**

did unlawfully, willfully, and knowingly fail to file with the Commissioner of the Internal Revenue Service, U.S. Department of the Treasury, an FBAR disclosing that he had a financial interest in, and signature and other authority over, a bank, securities, and other financial account in a foreign country, to wit, at least one financial account located in India at HSBC India, which had an aggregate value of more than \$10,000 at any time during the years listed below:


Count	Calendar Year	Due Date of FBAR
Six	2006	June 30, 2007
Seven	2007	June 30, 2008
Eight	2008	June 30, 2009
Nine	2009	June 30, 2010

All in violation of Title 31, United States Code, Sections 5314 & 5322; and Title 31, Code of Federal Regulations, Sections 1010.350, 1010.306(c, d) & 1010.840(b) (formerly Title 31, Code of Federal Regulations, Sections 103.24, 103.27(c, d) & 103.59(b)).

A TRUE BILL:

  
\_\_\_\_\_  
Foreperson

9/27/11  
\_\_\_\_\_  
Date

  
JAMES L. SANTELLE  
United States Attorney