

RON WYDEN, OREGON, CHAIRMAN

DEBBIE STABENOW, MICHIGAN  
MARIA CANTWELL, WASHINGTON  
ROBERT MENENDEZ, NEW JERSEY  
THOMAS R. CARPER, DELAWARE  
BENJAMIN L. CARDIN, MARYLAND  
SHERRROD BROWN, OHIO  
MICHAEL F. BENNET, COLORADO  
ROBERT P. CASEY, JR., PENNSYLVANIA  
MARK R. WARNER, VIRGINIA  
SHELDON WHITEHOUSE, RHODE ISLAND  
MAGGIE HASSAN, NEW HAMPSHIRE  
CATHERINE CORTEZ MASTO, NEVADA  
ELIZABETH WARREN, MASSACHUSETTS

MIKE CRAPO, IDAHO  
CHUCK GRASSLEY, IOWA  
JOHN CORNYN, TEXAS  
JOHN THUNE, SOUTH DAKOTA  
RICHARD BURR, NORTH CAROLINA  
ROB PORTMAN, OHIO  
PATRICK J. TOOMEY, PENNSYLVANIA  
TIM SCOTT, SOUTH CAROLINA  
BILL CASSIDY, LOUISIANA  
JAMES LANKFORD, OKLAHOMA  
STEVE DAINES, MONTANA  
TODD YOUNG, INDIANA  
BEN SASSE, NEBRASKA  
JOHN BARRASSO, WYOMING

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR  
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

November 17, 2021

Marc R. Cohen  
Partner  
Mayer Brown, LLP  
1999 K Street, N.W.  
Washington, D.C. 20006-1101

Dear Mr. Cohen,

Thank you for your October 1, 2021 letter responding to questions regarding Mirabaud's association with Robert Brockman and related entities. Due to the limited information provided in your response, this letter seeks further clarification regarding Mirabaud's handling of accounts that have been identified in federal court records as owned and controlled by Mr. Brockman through his agents. The Finance Committee is seeking to understand the nature and extent of the due diligence and know your customer efforts undertaken by Mirabaud in connection with one of its largest clients and in light of the substantial cash transactions through Mirabaud accounts allegedly used in furtherance of one of the largest tax evasion schemes in U.S. history.

Your October 1<sup>st</sup> letter acknowledges the existence of accounts at Mirabaud now believed to be tied to Mr. Brockman, however the letter states that Mirabaud ("the Bank") was not aware that Mr. Brockman had an interest in any accounts at the Bank, which were held in the name of legal entities and not in Mr. Brockman's name. Consequently, the Bank claimed that "Brockman was never a 'client' of the Bank,"<sup>1</sup> even though his beneficial ownership of those accounts means that he was, in fact, a Mirabaud client.

Your response attributes the Bank's failure to detect Mr. Brockman's ownership and control of the accounts to the "deceptive actions" taken by Evatt Tamine, an attorney working on Mr. Brockman's behalf. The Bank stated Mr. Tamine opened the Mirabaud accounts involved in Mr. Brockman's tax evasion and other schemes while concealing Mr. Brockman's involvement.<sup>2</sup> Mr. Tamine is now a cooperating witness in the case against Mr. Brockman. Lastly, your letter claims that the Bank learned of Mr. Brockman's alleged ownership and control of these accounts only after Mr. Brockman's indictment was made public.<sup>3</sup>

<sup>1</sup> Letter from Marc Cohen on behalf client, Mirabaud & Cie Ltd. ("Mirabaud" or the "Bank"), to Ron Wyden, Chairman, Senate Committee on Finance at 1, October 1, 2021.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 2.

A key Mirabaud account referenced in the Brockman indictment was opened in the name of Point Investments Ltd. (“Point Investments”) and Mr. Tamine served as the signatory. If the Bank had inquired into the source of the deposits made into that account, it appears the Bank could have uncovered the links to Mr. Brockman and his family as well as other indicia of U.S. person involvement. The Brockman indictment alleges, for example, that Point Investments was a Bermudian entity originally incorporated by Mr. Brockman in 1999, in the British Virgin Islands to invest in private equity funds managed by U.S.-based Vista Equity Partners.<sup>4</sup> One hundred percent of the investment shares of Point Investments were owned by Spanish Steps Holdings, LLC (“Spanish Steps”), a Nevisian company formed by Mr. Brockman in 1997, and wholly owned by the A. Eugene Brockman Charitable Trust (“the Brockman trust”).<sup>5</sup> The four named beneficiaries of the Brockman trust were Mr. Brockman, his wife, his brother and his sister in law.<sup>6</sup>

The indictment also revealed that Mr. Tamine in 2007 managed, in part or in whole, the Brockman Trust, Spanish Steps, Point Investments and the St. Johns Trust Company, which served as the trustee for the Brockman Trust.<sup>7</sup> In an affidavit filed in Bermuda, Mr. Tamine explained in detail how he began working for Mr. Brockman in 2004 in connection with the Brockman Trust and other structures connected to Mr. Brockman.<sup>8</sup> Mr. Tamine also disclosed that he set up his consulting firm Tangarra Consultants Limited in 2003, to obtain a Bermudian work permit, and in the period between 2004 and August 2010, Mr. Tamine was paid through Tangarra by entities associated with Mr. Brockman.<sup>9</sup> According to publicly available disclosures filed with the Securities and Exchange Commission in 2006, Spanish Steps, where Tamine was a director, was used by Robert Brockman as an entity to acquire stock in Reynolds & Reynolds, a corporation based in Ohio that provided software to automobile dealerships across the United States.<sup>10</sup>

The accounts at the Bank on which Mr. Tamine served as a signatory saw very large deposits that should have triggered enhanced due diligence reviews of the source of funds behind those transactions, including the activities that generated those funds. In particular, a one-time deposit of approximately \$799 million into the account was described as the proceeds of a distribution from Vista Equity Partners to Point Investments from Vista’s sale of a portfolio company, but the extent to which Mirabaud evaluated that assertion is unclear.<sup>11</sup> At the time, Mr. Brockman had

---

<sup>4</sup> *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 3 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020) available online at <https://www.justice.gov/opa/press-release/file/1327921/download>.

<sup>5</sup> *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 2 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020) available online at <https://www.justice.gov/opa/press-release/file/1327921/download>.

<sup>6</sup> *Id.*

<sup>7</sup> *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 3 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020) available online at <https://www.justice.gov/opa/press-release/file/1327921/download>.

<sup>8</sup> *U.S. v. Brockman*, 4:21-cr-0009-GCH, United States’ opposition to Tangarra’s motion to strike at 16 (Doc., #104-1).

<sup>9</sup> *Id.*

<sup>10</sup> The Reynolds and Reynolds Company, *2006 Schedule 14A*, available online at <https://www.sec.gov/Archives/edgar/data/83588/000095012306011010/y22076pmprem14a.htm>

<sup>11</sup> *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 11 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020), available online at <https://www.justice.gov/opa/press-release/file/1327921/download>

committed \$1 billion in capital to Vista funds through Point Investments and was the single largest investor in these funds.<sup>12</sup>

In light of the Bank's alleged failure to discover Mr. Brockman's role as the beneficial owner behind the Point Investments account, it is critical to understand what information the Bank requested from Mr. Tamine or other account signatories at the time of onboarding and when multiple large transactions deposited hundreds of millions of dollars in cash into the Bank.

This information will assist the Senate Finance Committee in its analysis of the methods used by high net worth U.S. persons to evade federal taxes by concealing offshore income, the role of intermediaries and shell entities in enabling that misconduct, the role of Mirabaud in accepting and safeguarding over \$1 billion in undeclared income over the course of a decade, and whether FATCA needs to be strengthened or better enforced. Accordingly, please provide answers to the following questions no later than December 17, 2021:

1. For years 2010 – 2020, please provide the total amount of customer deposits at the Bank in each year.
2. For years 2010 – 2020, please provide the total number net new money inflows into the Bank in each year.
3. Please indicate how many accounts Mirabaud entities have reported to the IRS under its FATCA agreements with the IRS.
4. Mirabaud's October 1<sup>st</sup> letter acknowledged the existence of accounts at the Mirabaud now believed to be tied to Mr. Brockman (referred to as "Accounts"). Please describe each of these accounts, including the names of the individuals or entities under which they were opened as well as the amount of funds deposited in those accounts for years 2010 – 2020.
5. During the period 2010 to 2020, what was the largest total dollar value of cash and assets deposited into Mirabaud accounts now alleged to have been beneficially owned or controlled by Mr. Brockman?
6. According to the U.S. Department of Justice (DOJ), the accounts numbered \*\*\*463 opened by Mr. Tamine in the name of Point Investments and numbered \*\*\*951 opened in the name of Edge Capital Investments, Ltd. ("Edge Capital") together processed nearly \$1 billion in transactions at Mirabaud. Please explain who the Bank believed to be the ultimate beneficial owner of these entities and the funds they placed with the Bank, and the basis for that belief.
7. For accounts numbered \*\*\*463 in the name of Point Investments, numbered \*\*\*951 in the name of Edge Capital, and any other account now alleged to have been beneficially

---

<sup>12</sup> *Id.* at age. 4

owned or controlled by Mr. Brockman, please describe the KYC and due diligence procedures undertaken by Mirabaud at the time of onboarding and throughout the relationship. For each such account, this description should include, but not be limited to, the following:

- a. A detailed description of the types of information requested for the customer information file compiled by Mirabaud employees for the account;
  - b. A copy of any questionnaire sent by Mirabaud employees to the accountholder as part of its KYC or due diligence procedures;
  - c. Whether any Mirabaud employee interviewed Mr. Tamine or other account signatories in connection with the account and, if so, the name and job title of each such employee, the questions asked by the Mirabaud employee, and the responses and any information provided by the accountholder; and
  - d. A description of any financial statements requested or provided by the accountholder.
8. What due diligence was undertaken by the Bank with respect to Evatt Tamine when he first opened accounts at the Bank? Did the Bank know he was a lawyer based in Bermuda? Please also provide a copy of any due diligence or know your customer (KYC) questionnaires sent to Tamine at the time of onboarding and throughout the relationship.
9. Did the Bank ever request information from Mr. Tamine related to his firm, Tangarra Consultants Limited ("Tangarra")? If so, did the Bank believe Mr. Tamine owned or controlled Tangarra? Is it Mirabaud's understanding that Mr. Brockman was Mr. Tamine's sole client? What did the Bank understand to be Tangarra's primary business lines and major clients? Did the Bank open any accounts for Mr. Tamine or Tangarra?
10. Did the Bank ever ask Mr. Tamine, or anyone else affiliated with the accounts, whether he was representing or acting as an agent for a third party in connection with the accounts opened by Point Investments, Edge Capital or other accounts now alleged to have been beneficially owned and controlled by Mr. Brockman?
11. When the Bank opened the account in the name of Point Investments, did the Bank know that the company was incorporated in 1999 in the British Virgin Islands and then reincorporated in Bermuda? Did the Bank know that Point Investments was wholly owned by Spanish Steps Holdings, LLC which was formed in Nevis? If the Bank was aware of Point Investment's connections to the British Virgin Islands, Bermuda, and Nevis, did the involvement of three different secrecy jurisdictions raise any concerns or trigger additional due diligence?
12. A publicly available document filed with the U.S. Securities and Exchange Commission (SEC) in 2006 revealed that Spanish Steps was being used by Robert Brockman as an entity to acquire stock in Reynolds & Reynolds, a corporation based in Ohio that

provided software to automobile dealerships across the United States.<sup>13</sup> The disclosures revealed that Mr. Brockman paid approximately \$300 million in cash and borrowed approximately \$2.1 billion for the acquisition of Reynolds & Reynolds.<sup>14</sup> Mr. Brockman executed the acquisition in his capacity as Chairman and Chief Executive Officer of Universal Computer Systems Holdings, Inc., a company headquartered in Houston, Texas.<sup>15</sup>

- a. Did employees at the Bank ever review the aforementioned document filed with the SEC as part of its due diligence or KYC procedures, at the time of onboarding or throughout the relationship?
  - b. Did the Bank ever ask Evatt Tamine for a list of professional affiliations, including any entities in which he served as a director? If so, did the Bank ever conduct any due diligence on the legal entities in which Tamine served as a Director?
  - c. Was the Bank ever aware Evatt Tamine was a Director of Spanish Steps?
  - d. Was the Bank ever aware Spanish Steps was an entity founded and owned by Robert Brockman?
  - e. Was the Bank aware of Spanish Steps ownership and control of Universal Computer Systems Holdings, Inc.?
13. Please provide copies of all account documentation related to the Bank's due diligence and KYC efforts related to Mr. Tamine, Tangarra, Point Investments, Edge Capital, and any other account opened by an entity now alleged to have been beneficially owned or controlled by Mr. Brockman.
14. For Mirabaud accounts opened in the name of Point Investments, Edge Capital, or any other entity now associated with Mr. Brockman or Mr. Tamine, did Mirabaud ask for information regarding the origin and source of the cash or assets deposited into those accounts? If so, for each account, please describe what information was requested by the Bank, the information provided, and whether its requests included any of the following:
- a. The names of the human beings who beneficially owned or controlled the entity that served as the accountholder;
  - b. Information pertaining to any family or generational wealth that served as a source of the funds or assets deposited into the account, including the nature of the activities that generated that wealth;
  - c. The net worth of the accountholder, including how and through what means the accountholder obtained and accumulated the assets reflected in the net worth;

---

<sup>13</sup> The Reynolds and Reynolds Company, 2006 Schedule 14A, available online at <https://www.sec.gov/Archives/edgar/data/83588/000095012306011010/y22076pmprem14a.htm>

<sup>14</sup> Id.

<sup>15</sup> Id.

- d. Information regarding income, revenue and business activities related to the accountholder (including business ownership, business operations, employment, sales of products, business properties and other commercial assets):
  - e. Investment activities that served as a source of the funds or assets deposited into the account, including income from the acquisition or sale of investments in real estate, securities, or private equity, or from royalties, patents or other activities; or
  - f. Copies of any financial statements for the entity serving as the accountholder.
15. For accounts opened at Mirabaud opened in the name of Point Investments, Edge Capital, or any other entity now alleged to have been beneficially owned or controlled by Mr. Brockman or Mr. Tamine, did Mirabaud encounter any evidence that one or more of those entities was associated with a U.S. person? Was any U.S. address or telephone number associated with any of those accounts? Was any U.S. taxpayer identification number provided for any of those entities? Were any funds or assets from those accounts ever transferred to a U.S. financial institution? Did any U.S. person act as an agent or nominee for those accounts?
16. According to DOJ, on or about May 20, 2010 a \$1 million deposit was made in Mirabaud account \*\*\*463 in the name of Point Investments. Did Mirabaud ever request any information related to the source of wealth or source of funds for this deposit? If so, please identify by name and job title the Mirabaud employees who requested the information and describe any information they collected related to this transaction, including any information on the activities that generated these funds.
- a. Please provide a detailed description of any correspondent account or banking services used to facilitate this transaction and provide copies of any wire transfers.
17. According to DOJ, on or about May 24, 2010 a deposit of approximately \$799 million was made in Mirabaud account \*\*\*463 in the name of Point Investments. Did Mirabaud ever request any information related to the source of wealth or source of funds for this deposit? If so, please identify by name and job title the Mirabaud employees who requested the information and describe any information they collected related to this transaction, including any information on the activities that generated these funds.
- a. Did the Bank conduct any enhanced due diligence or additional inquiry into the source of wealth or source of funds responsible for this transaction, including the activities that generated these funds?
  - b. Did Mirabaud determine that the source of the \$799 million deposit was a distribution by Vista Equity Partners of proceeds from Vista Equity Fund II's sale of a portfolio company? If so, please provide copies of any documentation supporting that determination. If not, what did Mirabaud determine was the source of funds for the transaction? Please provide copies of any documentation supporting that determination.

- c. Did Mirabaud ever contact Mr. Tamine or other signatories for account \*\*\*463 to discuss the source of funds for this transaction? If so, please identify the Mirabaud employees by name and job title who made this contact and whom they contacted. Please provide copies of any relevant documents.
  - d. Please provide a detailed description of all information collected by Mirabaud regarding the investment or business activities that generated the funds for this transaction and provide copies of relevant documents.
  - e. Please provide a detailed description of any correspondent account or banking services used to facilitate this transaction.
18. For accounts numbered \*\*\*463 opened in the name of Point Investments and numbered \*\*\*951 opened in the name of Edge Capital, did the Bank obtain form A documents when these accounts were opened? If so, please provide copies of all Form A documents obtained by the Bank as they relate to these accounts, during the opening process as well as throughout the relationship.
19. At any point in the relationship, were there any beneficial ownership changes for these accounts\*\*\*463 opened in the name of Point Investments and numbered \*\*\*951 opened in the name of Edge Capital? If so, please also provide copies of Form A documents obtained as they relate to beneficial ownership changes for these accounts.
20. Was Mirabaud ever aware that Point Investments held investments in private equity funds managed by Vista Equity Partners, including Vista Equity fund II? If so, please describe when and how Mirabaud learned this information.
21. Does Mirabaud classify clients with assets valued over a specific dollar amount as high net worth or ultra-high net worth? If so, please provide:
- a. The metrics Mirabaud uses to designate clients as high net worth or ultra-high net worth, including the dollar value thresholds for each designation;
  - b. Any enhanced due diligence or KYC processes used by the Bank to evaluate high net worth or ultra-high net worth clients at the time of onboarding and throughout the relationship; and
  - c. Whether the Bank treated account numbered \*\*\*463 opened in the name of Point Investments and account numbered \*\*\*951 opened in the name of Edge Capital as accounts belonging to a high net worth or ultra-high net worth client.
22. In light of the information now available to Mirabaud regarding Mr. Brockman's relationship to Point Investments, Edge Capital, and other entities, was Mr. Brockman the Bank's largest client during the period 2010 to 2020? If not the Bank's largest client, was Mr. Brockman among the Bank's top five or top ten largest clients?

23. For account numbered \*\*\*463 opened in the name Point Investments and account numbered \*\*\*951 opened in the name of Edge Capital, what country did Mirabaud attribute to the accountholder and why? For each account, did Mirabaud ever conduct a review of any indicia of U.S. persons or request information related to compliance with relevant tax laws, including FATCA? If so, please describe the scope and nature of the review and describe or provide copies of any findings or reports created as a result.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden  
Chairman  
Committee on Finance