

LUCIFER'S BANKER

THE UNTOLD STORY *of*
HOW I DESTROYED
SWISS BANK SECRECY

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"Where's my bonus, Christian? It didn't hit my bank account."

In reply, I got a long email back from Human Resources, with lots of curly language and Monica's signature. But her basic message was no frills either.

"Mr. Birkenfeld, I am sorry to inform you that you are not entitled to this period's bonus, nor any thereafter. You have chosen to resign from the bank, and these are the consequences."

Oh, really? I fired back with both barrels.

"Dear Ms. Boesch, apparently you are misinformed. According to Swiss banking law, which I have studied and researched in depth, the contractual obligations between a financial firm and an employee survive the current status of his employment. The fact that UBS has been paying my annual bonuses without hesitancy or complaint is an irrefutable indication that my performance, from which the bank continues to reap benefits, is still deserving of reward. Therefore, the fact of my resignation does not release the bank of this contractual obligation."

She didn't answer me. No big surprise there. But after a day, Bovay sent me one curt line, and I could almost see him sneering like a crazed Swiss leprechaun as he did it.

"You're not getting your bonus, Bradley. Forget about it."

I actually laughed. After all these years, you'd think the little weasel would have known me by now. But he probably figured that I wanted to go on living in Switzerland, maybe make a career move to some other bank or financial-type firm. He probably thought that the last thing I would do was take radical action, without giving a shit if I burned every bridge from the Thames to the Somme. He didn't know me at all. I called up Olivier Chedel.

"Bradley, old boy! How are you? Barclays has never been the same without you, you know. I heard that you and UBS parted ways."

"We did indeed, Olivier," I said. "And I'm fine. Enjoying my gardening leave."

"Very good. And what can I do for you? Are you looking for another position?"

"No, Olivier. Actually, I'm looking for an attorney, the best litigator money can buy."

"Ahh, blood sport," he said. "Sounds like a fray's coming up." He paused for a moment, then said, "It would be unseemly of me, of course, to recommend someone who'd help you dismember a fine sister institution, if that's what you have in mind."

"That's exactly what I have in mind, Olivier."

He laughed. "Dr. Charles Poncet. *Juris Doctor*, that is. You'll find him easily. And tell him I sent you."

"I always loved working with you, Olivier."

"I miss you as well, my friend."

It took me about five minutes to dig up Dr. Charles Poncet, who had a reputation as a hard-ass attorney and corporate lion-killer. I made an appointment, took along a copy of my UBS contract, plus records of all my salaries, bonuses, and the killings I'd made for the bank. I found him ensconced in a luxurious office of French antique furniture, an impeccably dressed elderly gent with a balding peak, fine wings of gray hair swept over his ears, and a pair of rose-colored glasses perched on the tip of his nose. I told him that UBS owed me a bonus of 600,000 Swiss francs. He smiled like a jackal.

One week later, I sued UBS for a million Swiss francs.

I like round numbers.

CHAPTER 7

TARANTULA

"Let them hate, so long as they fear."

—CALIGULA, ROMAN EMPEROR

SWISS BANKERS DON'T TALK.

If they do, they can wind up in a cold stone prison for a very long time, until all their clients are dead and there's nothing left to talk about.

After being sandbagged by that UBS Three-Page Memo and then stonewalled over and over, I was sorely tempted to scream to high heaven and let the whole world know what those bastards were up to. But Swiss banking laws strictly prevented me from taking it public. I knew I'd barely get out a peep before some Swiss Vatican Guard-type goons showed up and dragged me off to jail, where the only ones I'd be able to talk to would be some French-speaking janitor and my attorney. This wasn't like Boston, just a matter of hiring a couple of clowns. These guys were deadly serious about crushing anyone who fucked with their money.

The other thing Swiss bankers don't do is sue Swiss banks. It's not something you do if you're thinking about ever working in corporate finance or private banking again. In my case, I didn't give a damn about that; I knew I could still make a living in six different ways. But news of my lawsuit spread through UBS like a California

wildfire. A couple of days after Dr. Poncet filed in court in Geneva, James Woods called me up.

"Bradley, you're suing the bank? Are you out of your bloody mind?"

"Which question do you want answered first, James? It's 'yes' to the first one, and 'maybe' to the second."

"Seriously, sport. You know you'll never work in this town again!"

"I've heard that before. Besides, the bartender over at the Pussy Cat's a good friend of mine. I'm sure he'll give me a job."

"Oh, please!" Then James dropped his voice. "I'm telling you, Brad, the steam's coming out of their ears over here."

"Good. Then they'll pay up."

"Bollocks! They'll die first."

I laughed. "That's one funeral I'll really enjoy."

I could imagine him shaking his head as he hung up. He was right; no one would dare sue a multibillion-dollar worldwide megapower bank like UBS, the largest financial institution in the world, and think he could get away with it. No one except me.

The thing about suing a major corporation is that with battalions of lawyers they can make the proceedings drag on forever. I knew they'd stall, file for postponements, pull me into endless depositions, and object to every motion. Dr. Poncet had warned me about that, but it was exactly what I expected and had already planned for, and I was looking forward to it. If they thought being sued was my last surprise, they had another think coming. It was time for Phase Three of my assault. It was time to become the scourge of every great financial institution: a pissed-off, dangerous internal whistle-blower.

Yank my tail, you get the horns.

Every major corporation in the Western world has a set of internal whistle-blowing policies. Now, you might think those are designed so that any employee who discovers something amiss can complain to his or her superiors and remain confidential, still hold on to his job, and make sure the company stays on the straight and narrow, right? Well, the reality is that usually when an employee finds himself between a rock and a hard place, with no choice but to

whistle-blow, everyone nods their heads and says, "Thank you *sooo* much." But after that the guy's a pariah; might as well have a "T" for Traitor tattooed on his forehead. Folks who whistle-blow internally know their careers within that firm are essentially fucked, which is why such action is as rare as virgins in Paris. Most whistle-blowers never get any kind of reward. They're treated like snitches: They're intimidated, threatened, retaliated against, and blackballed. They lose their jobs, lose their finances, their families are devastated and their lives destroyed. Almost nobody does it unless their backs are against the wall.

I, on the other hand, was in a very rare and advantageous position. Technically I was still employed by UBS, out on gardening leave yet still drawing a substantial salary. But I'd already resigned, so what could they do to me? Deny me my bonus? They'd already done that and we were battling it out in court, so they were fucking with a dude who had nothing to lose. Talk about stupid. With all those big-shot finance businessmen at the top of the UBS pyramid, there wasn't one functioning brain in the bunch.

One of them, a gentleman named Peter Kurer, was a Managing Director and also General Counsel for UBS worldwide. He had personally authored the UBS internal whistle-blowing policies. There were three long documents, about ten or fifteen pages each: Group Policy, Corporate Policy, and Private Banking Policy. Within those policy documents the procedures for bringing misdeeds to attention and seeking redress were carefully enumerated. Unlike the Three-Page Memo, these things had the UBS logo and letterheads all over them, and they were signed by Kurer himself.

Well, guess who had very nice digital and hard copies of the policies? I wrote a long letter to Kurer, invoking my rights as a UBS employee, shareholder, and internal whistle-blower, and of course I told him exactly why. To make sure he got the message loud and clear, I attached his own policy documents and a copy of the infamous Three-Pager. Now you're probably thinking he stonewalled me, just like Human Resources had, but I made damn sure he couldn't. This time I acquired the mailing addresses of every member of the UBS Board of Directors and sent each one a hard copy of the letter and

attachments I'd just sent to Kurer—registered mail, return receipts requested. By the way, the Swiss postal system runs flawlessly; their main distribution center just outside Geneva looks like a NASA rocket facility and the postal employees are obsessed with good mail. No one on the board could pretend they hadn't received their poison-pen letter.

Three days later . . . Boom! It was like I'd hit them with a nuclear bomb. My friends inside the bank started emailing me from their personal email accounts.

"Brad, you have no idea what's going on in this bank now!"

"I think I might have some idea."

"They're shitting themselves!"

"Good. I'll send over a pallet of toilet paper."

Then I got an email from Peter Kurer. "Mr. Birkenfeld, a pair of internal investigators from Zurich headquarters would like to interview you tomorrow. Are you available?"

"I'll clear my calendar," I replied.

Then I took Dr. Poncet out to lunch at the Hotel des Bergues, just across the footbridge on the other side of the lake. We had lobster risotto in the same bar where Ian Fleming used to hang out when he was studying for a year in Geneva. It was the perfect place for conspiratorial conversation: dark chestnut wood, royal blue brocade chairs, rich Persian carpets, and discreet waiters who kept their distance.

"Listen, Doc," I said. "These goons are going to try to snow me, get me to back off, and make it all go away."

"That will not happen, Bradley," said Poncet. "Because I shall be there with you. We're in the middle of legal proceedings and you should not be there without your 'gunslinger,' like in one of those westerns you Americans like so much."

I smiled. "Like *Unforgiven*?"

"I haven't seen that film, but the title sounds apropos."

The next morning Dr. Poncet and I appeared at the same UBS headquarters building where I'd met with Monica and Juerg. By this time my name and face had been flashed to all the UBS security desks like some sort of BOLO ("Be on the Lookout"), so we got

ourselves a wary escort up to the designated floor and into a small sterile conference room. Inside, the two internal investigators from Zurich were standing on the other side of the table, Mssrs. Schmidt and deCourton. They looked like a pair of skinny twins from *Men in Black*. Dr. Poncet took out his business card and placed it on the table. Their eyes glowed.

"What is your attorney doing here, Mr. Birkenfeld?" one of them demanded.

Before I could answer, Poncet pushed me aside and snapped, "Number one, Mr. Birkenfeld does not trust this firm. Number two, he certainly does not trust either of *you*. So, if you have an objection to my presence, we can leave right now."

"No, no, no." The other one waved his hands. "We've got to report back to Zurich!"

"Then I suggest you sit down and shut up," Poncet snapped. "And let's simply do this."

The whole thing was like a boxing match, with me reiterating everything I'd done and why I'd done it, and those two clowns dodging and weaving. Dr. Poncet didn't interrupt much or whisper cautions in my ear, because I'd already briefed him on my plan. I was going to feed these dudes some accurate information, and some stuff I'd just made up, because after this I was going to use my friends in the bank and "backdoor" these guys. If they were going to conduct a serious internal inquiry, they'd look into all of my documented claims. If not, the whole thing would be just a sham dog-and-pony show, as I expected.

After an hour, they packed up their notebooks and briefcases.

"We are going to conduct a very thorough investigation," one of them promised while the other nodded.

"I'm sure you are, gentlemen," I said. "Have fun."

Well, I was right again. Peter Kurer called for a full and formal internal review. It took about a month, but he and his little gray men whitewashed the entire scandal. Out of the thirty-plus people on the Americas Desk in Geneva, they briefly interviewed only twelve. And up in Zurich, where an identical Net New Money operation was still in full swing, they didn't speak to a single soul! None of the

"creative" accusations I'd made were even mentioned. My backdoor intel was just too good. Sometimes I hate being right.

Finally I got an email from Kurer, in which he hopped around like a ballerina on a bed of hot coals.

"We have conducted a most thorough investigation, and I am pleased to say that all of your concerns have been resolved. Apparently some small missteps were made in the past, and it is understandable that you misinterpreted some old emails and communications which, over time, have become irrelevant . . ."

Blah, blah, blah, blah. He didn't address a single slab of the Swiss cow dung that was smeared all over everyone's shoes. I was furious. Treat me like a loose cannon and a traitor, fine. But call me a liar? Now you're playing with fire. His letter ended with a tag line, and then I understood its prime objective.

"Given that the investigation is now concluded, we would like to reach a settlement with you regarding your bonus. Please do get back to me on this at your earliest convenience."

I faxed the letter over to Dr. Poncet. He called Peter Kurer direct.

"I see that you'd like to settle with Mr. Birkenfeld," Poncet said. "We're amenable to that. You owe him 600,000 Swiss francs. Write him a check for that amount and we'll go away."

Boom! Broadside with all cannons firing. UBS Legal went nuts and their team of lawyers streamed into court for preliminary hearings, hopping and fuming and yelling "Foul!" while Poncet and I sat there and yawned. But the judge wasn't buying their bullshit and he gave them the option to settle it amicably, or risk a full-blown trial, with all the horrors of bad press and publicity. I went home again to wait it out. James Woods called me up and we went out drinking at La Clémence, a trendy bar-cafe in the Old Town with big green umbrellas and fresh draft.

"You should just see what's going on at the Desk," he told me as he swigged his St. Andrew's Ale. "Your name spits from their mouths like they're talking about Osama bin Laden."

"That's pretty funny, James, since they're probably his bankers."

"No, seriously, Brad. I think they might be ordering up custom-made dartboards with your face on them. You've got a big set of bollocks doing this."

"Well, what else does a man have but his balls?"

The bank made one more stab at a pathetic settlement, which was another dumbass tactical error. They called up Dr. Poncet and offered me CHF 100,000; *one-sixth* of what they owed me. I was pissed enough, but I thought Poncet was going to bust a gut.

"We shall see you at trial!" he yelled through the phone.

But as that date grew closer, everyone at UBS headquarters knew they were going to lose. The Swiss laws and regulations regarding employment status were completely inflexible and they knew the judge was going to rip them a new one. For that one moment in time, I admired the whole Swiss "pole up your ass" thing. That judge wasn't going to budge. So, apparently the day before the trial, Zurich headquarters called Bovay in Geneva and said, "Christian, just pay him his fucking money!"

And so it was. We all gathered outside the courtroom in counsels' chambers, where the UBS lead attorney, from the prestigious law firm of Lenz & Stachelin, who looked like he'd been through a train wreck, muttered his offer.

"Mr. Birkenfeld, we are prepared to wire you 575,000 Swiss francs first thing tomorrow morning. Will you agree to that?"

I walked around the table, clapped him on the shoulder, and smiled.

"That'll do just fine," I said. Just to stick the knife in deeper, I added, "And you're going to pay me *offshore*, right?"

The guy snapped his pencil and turned so red I thought he was having a stroke. Dr. Poncet took my elbow and dragged me out of there. We went to a local bar and celebrated my historic win over champagne. I had sued the largest bank in the world, in their own backyard, and won!

I partied pretty hard for the next ten days. After all, I'd just trumped one of the most powerful banking institutions on earth at their own dirty card game and gone home the winner. The Pussy Cat Club, another old Ian Fleming haunt, was just around the corner and up the hill from my Eaux-Vives flat. I'd been a regular there for years and the Russian and Ukrainian dancers were always happy to see me, especially now as I bought them rounds of overpriced champagne and got girl-handled by a pair of stunning blondes named Natascha and Svetlana. But pretty soon the blush was off the rose. For the first time in my life, I wasn't sleeping well at night.

You might think that a sudden injection of half-a-million-plus would be an effective relaxer, but I already had plenty of money, and winning my bonus wasn't doing the trick. One morning, after having finally crashed at four a.m., I sat straight up in my bed at seven to the sounds of the trams starting to roll. My sheets were ruffled, a fire still smoldered in the hearth, an empty bottle of champagne bobbed in a bucket of melted ice, and my bathroom mirror was adorned with a big pair of red lips crafted in lipstick. Nothing about the night before was very clear, but one thing was: I wasn't done with UBS.

That's when I realized that I hadn't won a damn thing. *UBS* had. The whole corrupt Swiss banking monstrosity had. I'd been working with and for that system for a decade, made them tons of money, and built up their whole North American cash-sucking game into an exquisite art form. And even with all of that, they were ready to screw me, my colleagues, and their shareholders without a shred of integrity or a hint of regret. Even after I'd caught them red-handed, they'd lied and connived and tried to ream me one more time for good measure. Sure, they'd cried and fussed and fought me over my bonus, but it was all just a sham. Six hundred thousand bucks? That was lunch money to UBS! They could have been smart and apologized, doubled my bonus, bought me a new car, and thrown me a farewell party. The expense wouldn't have fazed them, and maybe if they'd made such gestures, I might have just walked away.

But not this way. Not with the metallic taste of betrayal still in

my mouth. My bank account was flush; I could do anything I wanted. I could start my own private equity business or just tool around Europe or go home and visit my family and friends. But the whole thing was still stuck in my craw like a rotten apple core. They doubted my determination and resourcefulness. They thought they could just pay up and continue doing their dirty business, while I rode off into the sunset like some dumbass American rodeo clown. *Wrong*. I wasn't half done with them, not by a long shot. Too many regular folks who could barely afford their overblown tax bills had been harmed by this whole Swiss scam, and during my career I'd been one of their top enablers. And the idea that those UBS bastards would just carry on fronting for worldwide fat cats and bad actors, while not giving a damn about anyone else's laws, or the guys like me who'd pay the price, made me furious. There had to be some way to end it all.

I couldn't talk about my roiling inner conflict with any of my friends in Geneva; they were mostly bankers like me, shackled to Swiss regulations about discretion and secrecy. But I had one very close friend I could trust, Sanjay Kumar. He was a quiet professional, a trust expert born in India and raised in Switzerland, and we'd done some business deals together but had never worked for the same people. Sanjay was all class, tall and lanky, happily married and calm as Lake Geneva in July. His only "peccadilloes" were fine art and classic old cars. "Trust" was his calling card.

I arranged to meet him for dinner at La Favola, a quiet little Italian restaurant in the Old Town where cash was the only accepted payment. It was a weeknight and no one was in there but us, the waiters, and ten empty tables of fine linens, gleaming silverware, and antique wood paneling. I pushed my pasta l'arrabiata around with a fork.

"I can't seem to let it go, Sanjay."

"But you won, Brad," he said in his Indian-British lilt. "I heard you were *brilliant*." Sanjay used that word sparingly.

"I haven't won anything but the money. I think I need to take this further."

"What exactly does 'further' mean?"

"The Americans."