

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**

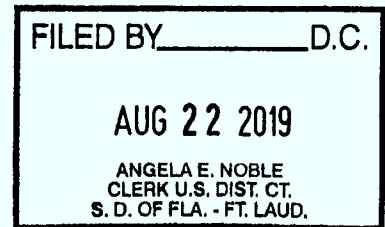
**CASE NO. 19-60152-CR-SCOLA(s)
31 U.S.C. §§ 5314 & 5322
26 U.S.C. § 7206(1)**

UNITED STATES OF AMERICA,

v.

BRIAN NELSON BOOKER,

Defendant.



SUPERSEDING INDICTMENT

The Grand Jury charges that:

INTRODUCTION

At all times relevant to this Indictment or as otherwise indicated herein:

1. **BRIAN NELSON BOOKER**, the defendant, was a United States citizen who resided in Fort Lauderdale, Florida, within the Southern District of Florida, until about December 2016.
2. **BRIAN NELSON BOOKER** owned a cocoa trading company, Zaandam Trading Co., Inc. (“Zaandam Trading”), which was a corporation organized under the laws of the Republic of Panama. The defendant operated Zaandam Trading from Venezuela, Panama, and his home in Florida.
3. The Internal Revenue Service (“IRS”) was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

4. All United States citizens were obligated to report all income earned, regardless of where they earned it, on a U.S. Individual Income Tax Return (“IRS Form 1040”) each year, and they were required to pay the taxes due on that income.

5. United States citizens were also obligated to report to the IRS each year whether they had an interest in, or signature authority over, a financial account in a foreign country for that year by checking “Yes” or “No” in the appropriate box on Schedule B of the IRS Form 1040, and identifying the country where the account was maintained.

6. Each year, United States citizens who had an 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 the prior year were required to file with the Commissioner of Internal Revenue a Report of Foreign Bank and Financial Accounts (“FBAR”), using Form TD F 90-22.1 prior to January 1, 2013, or, after January 1, 2013, using FinCEN Form 114. 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.

Foreign Accounts

7. Schroder & Co. Bank AG (“Schroder”) was a Swiss bank organized under the laws of, and domiciled in, Switzerland. From about March 2004 through at least September 2009, **BRIAN NELSON BOOKER** held a financial interest in, and signatory authority over, one or more accounts at Schroder, including an account ending in 4298 that was held in the name of Zaandam Trading.

8. Beginning on or about December 23, 2013, Schroder participated in the U.S. Department of Justice’s Swiss Bank Program, which provided a path for Swiss banks to resolve

potential criminal liabilities in the United States. In conjunction with that program, Schroder provided the United States with information regarding **BRIAN NELSON BOOKER's** customer relationship with the bank.

9. On or about July 24, 2009, Schroder sent a letter to **BRIAN NELSON BOOKER**, care of Zaandam Trading, that provided him with a choice: either withdraw all funds from Schroder account ending in 4298 and terminate their banking relationship, or submit an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”) within 60 days.

10. Singaporean Insurance Company 1 was an insurance company that operated in Singapore as a branch or subsidiary of a Swiss insurance company.

11. Certain insurance products, informally referred to as an “insurance wrappers,” enabled a policy holder to maintain financial assets in a foreign bank account, but had the effect of concealing the policy holder’s interest in the foreign bank account by holding it in the name of the insurance company.

12. From about September 2009 through at least February 2019, **BRIAN NELSON BOOKER** held a financial interest in, and signatory authority over, a policy with Singaporean Insurance Company 1, policy number ending in 9001. With this “insurance wrapper” product, the defendant concealed his interest in foreign financial assets, including accounts that held currency, U.S. securities, and bonds.

13. Swiss Bank 1 was a Swiss bank organized under the laws of, and domiciled in, Switzerland. From about September 2009 through at least February 2019, Swiss Bank 1 held **BRIAN NELSON BOOKER's** assets held through the Singaporean Insurance Company 1 policy number ending in 9001.

14. On or about August 31, 2009, **BRIAN NELSON BOOKER** sent a letter to Schroder instructing it to transfer all assets in Zaandam Trading's Schroder accounts to the defendant's Swiss Bank 1 account ending in 4157. The instructions directed the funds in favor of Singaporean Insurance Company 1.

15. From about September 2009 through at least February 2019, in conjunction with his Singaporean Insurance Company 1 policy, **BRIAN NELSON BOOKER** held a financial interest in, and signatory authority over, an account at Swiss Bank 1, account ending in 4157.

16. Banco General, SA ("Banco General") was a Panamanian bank organized under the laws of, and domiciled in, Panama. From about April 1999 through at least March 2018, **BRIAN NELSON BOOKER** held a financial interest in, or signatory authority over, one or more accounts at Banco General, including, at various times, accounts ending in 0512-0, 9194-0, and 2299.

17. From about April 1999 through at least December 2013, **BRIAN NELSON BOOKER** held Banco General account ending in 9194-0 in the name of Zaandam Trading. From about September 2012 through at least June 2015, **BRIAN NELSON BOOKER** held Banco General account ending in 0512-0 in his own name. **BRIAN NELSON BOOKER** also held in his own name a fixed-term deposit account at Banco General, account ending in 2299, from about September 2012 through at least March 2015.

FBAR and Tax Filing History

18. On or about the dates listed in the chart below, **BRIAN NELSON BOOKER** filed with the Commissioner of Internal Revenue FBARs for the calendar years listed below, disclosing his interest in, or signatory authority over, two bank accounts held in Caracas, Venezuela:

<u>Date</u>	<u>Calendar Year</u>	<u>Foreign Accounts Disclosed</u>
October 14, 2009	2008	1. Mi Casa Entidad de Ahorro y Préstamo, Account No. x0092 2. Corp Banca C A Banco Universal, Account No. x5722
June 30, 2010	2009	1. Mi Casa Entidad de Ahorro y Préstamo, Account No. x0092 2. Corp Banca C A Banco Universal, Account No. x5722
June 28, 2011	2010	1. Mi Casa Entidad de Ahorro y Préstamo, Account No. x0092 2. Corp Banca C A Banco Universal, Account No. x5722

The defendant did not disclose on the FBARs listed above, his interest in, or signatory authority over, any other foreign financial accounts for those calendar years, despite having an interest in additional foreign financial accounts during each of those years.

19. On or about the dates listed in the chart below, **BRIAN NELSON BOOKER** made and subscribed IRS Forms 1040 for the tax years listed below, which were filed with the IRS. On Schedule B of these tax returns, the defendant reported that he had an interest in, or signature authority over, a financial account in a foreign country during that tax year:

<u>Date</u>	<u>Tax Year</u>	<u>Schedule B (Line 7b)</u>
October 12, 2009	2008	Venezuela
October 5, 2010	2009	Venezuela

The defendant did not report on these tax returns his interest in, or signature authority over, financial accounts in any other foreign countries, despite having an interest in additional foreign financial accounts in other countries during each of those tax years.

20. On or about July 20, 2015, **BRIAN NELSON BOOKER** filed delinquent FBARs for calendar years 2008 through 2014 that disclosed his interest in, and signatory authority over, fourteen foreign financial accounts that the defendant had not previously disclosed, including his accounts held at Schroder, Banco General, Swiss Bank 1, and Singaporean Insurance Company 1.

Leaving the United States

21. On or about December 28, 2016, after learning of the criminal investigation against him, **BRIAN NELSON BOOKER** relocated from the United States to a country that has no extradition treaty with the United States. He has remained outside the United States since that time.

COUNTS ONE THROUGH THREE

(Failure to File Reports of Foreign Bank and Financial Accounts)

22. The factual allegations contained in Paragraphs 1 through 21 of the Introduction of this Indictment are re-alleged and incorporated herein.

23. During calendar years 2011 through 2013, the approximate high balances in **BRIAN NELSON BOOKER's** Swiss Bank 1 account ending in 4157, held in conjunction with the defendant's Singaporean Insurance Company 1 policy number ending in 9001, were as follows:

<u>Year</u>	<u>High Balance</u>
2011	\$9,278,614
2012	\$9,557,514
2013	\$9,228,894

24. During calendar years 2011 through 2013, the approximate high balances in **BRIAN NELSON BOOKER's** Banco General account ending in 9194-0, held in the name of Zaandam Trading, were as follows:

<u>Year</u>	<u>High Balance</u>
2011	\$143,009
2012	\$600,289
2013	\$650,006

25. During calendar years 2012 through 2013, the approximate high balances in **BRIAN NELSON BOOKER's** Banco General account ending in 2299, held in his own name, were as follows:

<u>Year</u>	<u>High Balance</u>
2012	\$13,654
2013	\$13,764

26. During calendar year 2013, the approximate high balance in **BRIAN NELSON BOOKER's** Banco General account ending in 0512-0, held in his own name, was as follows:

<u>Year</u>	<u>High Balance</u>
2013	\$302,008

27. On or about the due dates set forth below, within the Southern District of Florida, and elsewhere, the defendant,

BRIAN NELSON BOOKER,

did unlawfully, willfully, and knowingly fail to file with the Commissioner of Internal Revenue an FBAR disclosing that he had an interest in, and signature and other authority over, a bank, securities, and other financial account in a foreign country, as follows:

<u>Count</u>	<u>Calendar Year</u>	<u>Due Date of FBAR</u>
One	2011	June 30, 2012
Two	2012	June 30, 2013
Three	2013	June 30, 2014

Each in violation of Title 31, United States Code, Sections 5314 & 5322(a); and Title 31 Code of Federal Regulations, Sections 1010.350, 1010.306(c)-(d), and 1010.840(b) (formerly Title 31

Code of Federal Regulations, Sections 103.24, 103.27(c)-(d), and 103.59(b)).

COUNT FOUR

(Filing a False Tax Return for Tax Year 2010)

28. The factual allegations contained in Paragraphs 1 through 21 of the Introduction of this Indictment are re-alleged and incorporated herein.

29. On or about October 11, 2011, in Fort Lauderdale, Florida, in the Southern District of Florida, and elsewhere, the defendant,

BRIAN NELSON BOOKER,

did willfully make and subscribe an IRS Form 1040 for calendar year 2010, which was verified by a written declaration that it was made under the penalties of perjury and which **BRIAN NELSON BOOKER** did not believe to be true and correct as to every material matter, in that the IRS Form 1040, which was filed with the IRS, failed to report on Schedule B, Part III, lines 7a and 7b, that the defendant had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama, when **BRIAN NELSON BOOKER** well knew and believed that, in calendar year 2010, he had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama.

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

COUNT FIVE

(Filing a False Tax Return for Tax Year 2011)

30. The factual allegations contained in Paragraphs 1 through 21 of the Introduction of this Indictment are re-alleged and incorporated herein.

31. On or about October 5, 2012, in Fort Lauderdale, Florida, in the Southern District of Florida, and elsewhere, the defendant,

BRIAN NELSON BOOKER,

did willfully make and subscribe an IRS Form 1040 for calendar year 2011, which was verified by a written declaration that it was made under the penalties of perjury and which **BRIAN NELSON BOOKER** did not believe to be true and correct as to every material matter, in that the IRS Form 1040, which was filed with the IRS, failed to report on Schedule B, Part III, lines 7a and 7b, that the defendant had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama, when **BRIAN NELSON BOOKER** well knew and believed that, in calendar year 2011, he had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama.

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

COUNT SIX

(Filing a False Tax Return for Tax Year 2012)

32. The factual allegations contained in Paragraphs 1 through 21 of the Introduction of this Indictment are re-alleged and incorporated herein.

33. On or about September 11, 2013, in Fort Lauderdale, Florida, in the Southern District of Florida, and elsewhere, the defendant,

BRIAN NELSON BOOKER,

did willfully make and subscribe an IRS Form 1040 for calendar year 2012, which was verified by a written declaration that it was made under the penalties of perjury and which **BRIAN NELSON BOOKER** did not believe to be true and correct as to every material matter, in that income tax return, which was filed with the IRS, failed to report on Schedule B, Part III, lines 7a and 7b, that the defendant had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama, when **BRIAN NELSON**

BOOKER well knew and believed that, in calendar year 2012, he had an interest in, or signature or other authority over, bank, securities, and other financial accounts located in Switzerland, Singapore, and Panama.

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

COUNT SEVEN

(Filing a False Document with the IRS)

34. The factual allegations contained in Paragraphs 1 through 21 of the Introduction to this Indictment are re-alleged and incorporated herein.

35. From on or about June 30, 1976 until at least 1991, **BRIAN NELSON BOOKER** was a Certified Public Accountant registered with the Texas State Board of Public Accountancy.

36. United States citizens who held life insurance or annuity contracts with foreign insurers were obligated to report to the IRS any premiums paid to the foreign insurers during that quarter on a Quarterly Federal Excise Tax Return (“IRS Form 720”), and they were required to pay an excise tax on those premium payments.

37. **BRIAN NELSON BOOKER** was aware of his obligation to file an IRS Form 720 and pay an excise tax on the premiums he paid in conjunction with his policy with Singaporean Insurance Company 1. The defendant nonetheless failed to file the required tax return by October 31, 2009, or pay the excise tax due and owing.

38. **BRIAN NELSON BOOKER** reported gross receipts and net profit for his company, Zaandam Trading, on IRS Form Schedule C (“Profit or Loss from Business”) with his individual income tax return each year. However, for at least tax years 2008 and 2009, the defendant underreported the gross receipts and net profit for Zaandam Trading, as well as his total income for those tax years.

39. The Streamlined Domestic Offshore Procedures (the “Streamlined procedures”) allowed eligible taxpayers residing within the United States who failed to report gross income from foreign financial accounts on prior tax returns, failed to pay taxes on that gross income, or who failed to submit an FBAR disclosing foreign financial accounts, to voluntarily disclose their conduct to the IRS. Taxpayers who were eligible under the Streamlined procedures were subject to substantially lower penalties than those provided by other IRS programs.

40. In order to be eligible for treatment under the Streamlined procedures, taxpayers were required to file amended tax returns for the most recent three years for which the U.S. tax return due date had passed. Taxpayers who wished to take advantage of the Streamlined procedures were required to certify under the penalties of perjury that their failure to report all income, pay all tax or submit all required returns was due to non-willful conduct. Under the terms of the Streamlined procedures, the IRS defined non-willful conduct as conduct that was due to negligence, inadvertence, or mistake, or conduct that was the result of a good faith misunderstanding of the law.

41. On or about October 14, 2015, **BRIAN NELSON BOOKER** submitted to the IRS a Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures (IRS Form 14654, “Streamlined submission”). In his Streamlined submission, the defendant certified under the penalties of perjury that he “learned about the FBAR filing requirements in 2008” and that he “mistakenly believed that only personal financial accounts had to be reported on the FBAR.” The defendant also certified under the penalties of perjury that he was eligible for treatment under the Streamlined procedures and that his failure to report all income, pay all tax, and submit all required information returns, including FBARs, was due to non-willful conduct.

42. On or about October 14, 2015, in Fort Lauderdale, Florida, in the Southern District of Florida, and elsewhere, the defendant,

BRIAN NELSON BOOKER

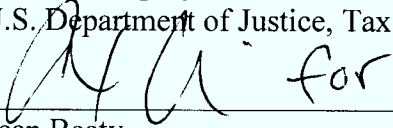
did willfully make and subscribe an IRS Form 14654, which was verified by a written declaration that it was made under the penalties of perjury and which **BRIAN NELSON BOOKER** did not believe to be true and correct as to every material matter. The defendant, in his Streamlined submission, which was filed with the IRS, falsely certified that he met all the eligibility requirements for treatment under the Streamlined procedures, and falsely claimed, among other things, that his failure to report all income, pay all tax, and submit all required information returns, including FBARs, was due to non-willful conduct.

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

A TRUE BILL

For person/

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
U.S. Department of Justice, Tax Division



Sean Beaty
Alexander R. Effendi
Trial Attorneys
U.S. Department of Justice, Tax Division

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

PENALTY SHEET

Defendant's Name: BRIAN NELSON BOOKER

Case No: 19-60152-CR-Scola(s)

Counts 1 to 3:

Failure to File FBARs (2011 – 2013)

Title 31, United States Code, Sections 5314 & 5322

***Max. Penalty:** Maximum 5 years, \$250,000 fine, 3 years supervised release, \$100 special assessment

Counts 4 to 7:

Filing False Documents / Tax Returns with the IRS (2010 – 2012, 2015)

Title 26, United States Code, Sections 7206(1)

***Max. Penalty:** Maximum 3 years, \$250,000 fine, 1 year supervised release, \$10 special assessment, imposition of costs of prosecution

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable**