

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	CRIMINAL NO. 1:10-CR-260
)	
v.)	<u>Count 1:</u> 18 U.S.C. § 371
)	(Conspiracy)
FELIX M. MATHIS,)	
)	<u>Count 2:</u> 31 U.S.C. § 5324(c)(3),
Defendant.)	(d)(2) (Structuring)
)	
)	<u>Count 3:</u> 31 U.S.C. § 5324(c)(3),
)	(d)(2) (Structuring)

INDICTMENT

July 2010 Term – At Alexandria

THE GRAND JURY CHARGES THAT:

Background

At all times relevant to this Indictment:

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 and residents had an obligation to report to the IRS on the 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 and residents also had an obligation to report all income earned from foreign bank accounts on their tax returns.

3. **United States citizens and residents 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 calendar year were required to file with the Department of the Treasury for that calendar year a Report of Foreign Bank and Financial Accounts on Form TD F 90-22.1 (the "FBAR"). The FBAR for that calendar year was due by June 30 following the end of that calendar year.**

4. **An "undeclared 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. **Individuals who physically transported, mailed or shipped, or caused to be physically transported, mailed, shipped or received, currency, traveler's checks, and certain other monetary instruments in an aggregate amount exceeding \$10,000 into the United States were required to file a report, FinCen Form 105, Report of International Transportation of Currency or Monetary Instruments ("CMIR"), with the Bureau of Customs and Border Protection.**

6. **United States law prohibited individuals from structuring mailings of U.S. currency into the United States in amounts less than \$10,000 if the purpose of the structuring was to evade the requirement to file a CMIR.**

7. **The "International Bank" was one of the largest international banks and was headquartered in England. It maintained offices throughout the world, including in the Eastern District of Virginia and in Geneva and Zurich, Switzerland.**

The Conspirators

8. Defendant, FELIX M. MATHIS, was a partner in the Zurich office of an independent Swiss law firm. He held law degrees from the University of Zurich and New York University. He has been a member of the New York Bar since 1989.

9. From in or about 1997 to 2009, Andrew B. Silva, an unindicted co-conspirator, a naturalized U.S. citizen, and resident of Sterling, Virginia, had a financial interest in an undeclared account at a Swiss bank owned by the International Bank from 1997 to 2009.

10. "The Swiss Banker," an unindicted co-conspirator, was a banker at the International Bank in Zurich.

The Tax Fraud Scheme

11. The tax fraud scheme involved:

- a. Concealing the existence and ownership of undeclared Swiss accounts by United States persons through the use of a sham Liechtenstein trust;
- b. Using U.S. currency, and prohibiting the use of wire transfers, to conceal from United States authorities withdrawals from undeclared Swiss accounts;
- c. Assisting Andrew Silva in structuring the importation of U.S. currency from Switzerland to the United States in amounts less than \$10,000 for the purpose of evading the reporting requirement to file a CMIR with the United States government upon crossing the border or physically transporting, mailing, shipping or receiving United States currency in excess of \$10,000.

COUNT ONE
(Conspiracy)

THE GRAND JURY CHARGES THAT:

12. The allegations contained in paragraphs 1 through 11 are realleged and incorporated herein.

THE CONSPIRACY AND ITS OBJECTS

13. From at least 1997 and continuing up to and including December 2009, in the Eastern District of Virginia and elsewhere, the defendant, FELIX M. MATHIS, together with his co-conspirators, including Andrew B. Silva, did unlawfully, knowingly and voluntarily conspire, combine, confederate, and agree together, with each other, and with other individuals both known and unknown to the Grand Jury, to defraud the United States and an agency thereof, to wit: the Internal Revenue Service of the United States Department of the Treasury, for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service 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, in violation of Title 18, United States Code, Section 371.

MEANS AND METHODS OF THE CONSPIRACY

14. Among the means and methods by which defendant, FELIX M. MATHIS, and his co-conspirators would and did carry out the conspiracy were the following:

15. It was part of the conspiracy that the defendant, FELIX M. MATHIS, and his co-conspirators would and did use a sham Liechtenstein trust, called the Pentruvoi Trust, to conceal the financial interests of United States citizens, including Andrew B. Silva and his co-conspirators, in undeclared Swiss accounts at the International Bank.

16. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, would and did counsel United States persons, including Andrew B. Silva, to keep the existence of, and their financial interests in, their undeclared Swiss accounts a secret by not sending communications either to or from the United States that referenced their undeclared Swiss accounts, by not placing telephone calls to Switzerland, and by not sending electronic mail communications to Switzerland.

17. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, would and did inform his co-conspirators that if they wished to transact business or meet to discuss their undeclared Swiss accounts with him they should send a coded letter to Switzerland stating that they wished to "meet for coffee."

18. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, and the Swiss Banker would and did inform their co-conspirators that they could not wire transfer funds from their undeclared Swiss accounts to the United States because such transfers would create a paper trail for United States authorities.

19. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, and the Swiss Banker would and did agree that any withdrawal from the undeclared Swiss account of Andrew B. Silva would be in the form of cash.

20. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, would and did advise Andrew B. Silva that he should not be in possession of account statements or other documentation relating to his undeclared Swiss account in order to maintain secrecy.

21. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, would and did advise Andrew B. Silva that if he transported less than \$10,000 in U.S. currency into the

United States that he would not have to declare the funds to U.S. Customs upon re-entry to the United States.

22. It was further part of the conspiracy that the defendant, FELIX M. MATHIS, would and did assist Andrew B. Silva in structuring the transportation and shipment of approximately \$235,000 in U.S. currency into the United States for the purpose of evading the currency and monetary instrument reporting requirements and to conceal his undeclared Swiss bank account from the IRS.

23. It was further part of the conspiracy that Andrew B. Silva and other U.S. persons would and did fail to disclose the existence of their Swiss bank accounts to their tax return preparers.

24. It was further part of the conspiracy that Andrew B. Silva and other U.S. persons would and did file false U.S. Individual Income Tax Returns, Forms 1040, on which they failed to declare income earned from their undeclared Swiss bank accounts on Schedule B.

25. It was further part of the conspiracy that Andrew B. Silva and other U.S. persons would and did fail to FBARs with the Department of the Treasury with respect to their undeclared Swiss accounts.

OVERT ACTS

In furtherance of the conspiracy and to effect the illegal objects thereof, defendant FELIX M. MATHIS and his co-conspirators committed the following overt acts, among others, in the Eastern District of Virginia and elsewhere:

26. In or about May 1999, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS advised Andrew B. Silva that his undeclared Swiss account was worth approximately \$250,000.

27. In or about May 1999, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS advised Andrew B. Silva that his undeclared Swiss account was “hush-hush” and that it would be best if he did not talk to others about it.

28. In or about May 1999, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS denied Andrew B. Silva’s request for documentation relating to his undeclared Swiss account and told him that in order to maintain secrecy he should not have account statements in his possession.

29. In or about May 1999, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS advised Andrew B. Silva that if he took less than \$10,000 in U.S. currency with him back to the United States that he would not have to declare the funds by making certain reports and disclosures to the United States government upon re-entry to the United States.

30. In or about May 1999, after meeting with the defendant FELIX M. MATHIS, Andrew B. Silva withdrew approximately \$9,000 in U.S. currency from his undeclared Swiss account with the assistance of defendant FELIX M. MATHIS’s secretary.

31. In or about May 1999, Andrew B. Silva transported approximately \$9,000 in U.S. currency from Switzerland to the United States.

32. In or about August 2009, defendant FELIX M. MATHIS sent an electronic mail message to Client A, a U.S. citizen and an unindicted co-conspirator, requesting a meeting.

33. In or about August 2009, during a meeting in Zurich, Switzerland, defendant FELIX M. MATHIS informed Client A that the International Bank was closing the undeclared Swiss accounts belonging to United States persons and that they had until the end of the year to travel to Switzerland to withdraw all funds.

34. In or about August 2009, Client A informed Andrew B. Silva and others that the International Bank was closing their undeclared Swiss accounts and that they had until the end of the year to travel to Switzerland to withdraw all funds.

35. In or about September 2009, during a meeting in Zurich Switzerland, defendant, FELIX M. MATHIS, informed Client B, a United States citizen and an unindicted co-conspirator, that her undeclared Swiss account was worth approximately \$115,000.

36. In or about September 2009, defendant, FELIX M. MATHIS, made an appointment for Client B at the private wealth office of International Bank for her to close her undeclared Swiss account.

37. In or about September 2009, during a meeting in Zurich Switzerland, a banker at International Bank provided Client B with \$115,000 in U.S. currency consisting of a "brick" of \$100,000 in new, sequentially numbered \$100 bills and a smaller bundle amounting to \$15,000 in new, sequentially numbered \$100 bills. When the banker presented the currency to Client B, the banker stated: "This is how your government gave it to us."

38. In or about September 2009, Client B mailed approximately \$100,000 in U.S. currency in envelopes each containing amounts less than \$10,000 from Swiss Post offices in Switzerland to addresses in Canada and the United States.

39. In or about September 2009, Client B informed Andrew B. Silva that she had successfully mailed U.S. currency from Switzerland into the United States.

40. In or about September 2009, Andrew B. Silva sent a letter from within the Eastern District of Virginia to the defendant FELIX M. MATHIS in Zurich, Switzerland requesting that the two "meet for coffee."

41. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS and Andrew B. Silva discussed the closure of Andrew B. Silva's undeclared Swiss account that was then worth approximately \$268,000.

42. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS informed Andrew B. Silva that the defendant FELIX M. MATHIS would not be involved with a wire transfer of funds, and the International Bank would not wire transfer the contents of his undeclared Swiss account to the United States because a wire transfer would create a trail for U.S. authorities regarding his undeclared Swiss account.

43. On or about October 12, 2009, during a meeting in Zurich, Switzerland, Andrew B. Silva informed the defendant FELIX M. MATHIS that he intended to liquidate his undeclared Swiss account by mailing the currency to his home in Sterling, Virginia, in envelopes containing less than \$10,000.

44. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS counseled Andrew B. Silva to mail the envelopes containing U.S. currency from numerous Swiss Post offices in order to avoid detection by U.S. authorities.

45. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS caused Andrew B. Silva to be provided with internet print-outs of the locations of four separate Swiss Post offices in Zurich within an approximately four mile radius of each other.

46. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS counseled Andrew B. Silva to stagger the sending of the envelopes containing U.S. currency via both regular and priority mail so that the envelopes would not arrive in the United States at the same time.

47. On or about October 12, 2009, in Zurich, Switzerland, the defendant FELIX M. MATHIS caused his secretary to inspect the envelopes Andrew B. Silva intended to use to mail U.S. currency to the United States to ensure that the envelopes did not look suspicious.

48. On or about October 12, 2009, Andrew B. Silva met with the Swiss Banker at the private wealth office of International Bank in Zurich, Switzerland to discuss his undeclared Swiss account.

49. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the Swiss Banker informed Andrew B. Silva that International Bank was closing down all accounts held by U.S. persons.

50. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the Swiss Banker counseled Andrew B. Silva that International Bank would not wire transfer money to the United States because doing so would create a trail for U.S. authorities regarding the undeclared Swiss account.

51. On or about October 12, 2009, during a meeting in Zurich, Switzerland, the Swiss Banker provided Andrew B. Silva with \$115,000 in U.S. currency consisting of an individually wrapped "brick" of \$100,000 of sequentially numbered, new \$100 bills and a second bundle of sequentially numbered, new \$100 bills totaling \$15,000.

52. On or about October 13, 2009, Andrew B. Silva mailed an envelope containing approximately 87 separate, sequentially marked \$100 bills taped inside a travel brochure from Zurich, Switzerland to his residence in Sterling, Virginia, within the Eastern District of Virginia.

53. On or about October 13, 2009, Andrew B. Silva mailed approximately \$97,000 in U.S. currency in 12 additional envelopes each containing amounts less than \$10,000 from Swiss

Post offices in Zurich, Switzerland to his residence in Sterling, Virginia, within the Eastern District of Virginia.

54. On or about October 13, 2009, Andrew B. Silva transported on his person approximately \$9,000 in U.S. currency from Switzerland to Dulles International Airport in Chantilly, Virginia, within the Eastern District of Virginia.

55. In or about November 2009, Andrew B. Silva sent a letter from within the Eastern District of Virginia to the defendant FELIX M. MATHIS in Zurich, Switzerland requesting that the two "meet for coffee."

56. On or about November 20, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS provided Andrew B. Silva with a manila folder that contained \$120,000 in U.S. currency consisting of a "brick" of \$100,000 of sequentially numbered, new \$100 bills and a second bundle of sequentially numbered, new \$100 bills totaling \$20,000 from his undeclared Swiss account.

57. On or about November 20, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS showed Andrew B. Silva statements of his undeclared Swiss account at International Bank, but did not provide him with copies, and counseled him not to carry copies because doing so could lead to the discovery of the account by U.S. authorities.

58. On or about November 21, 2009, Andrew B. Silva mailed a total of \$101,500 in U.S. currency in 12 envelopes containing U.S. currency in amounts ranging from \$4,000 to \$12,600 from Swiss Post offices in Zurich, Lucerne, and Geneva, Switzerland to his residence in Sterling, Virginia, within the Eastern District of Virginia.

59. On or about November 21, 2009, Andrew B. Silva mailed an envelope containing U.S. currency in an amount less than \$10,000 from a Swiss Post office to the residence of Client A in the Western District of Wisconsin.

60. On or about November 23, 2009, Andrew B. Silva transported approximately \$9,000 in U.S. currency from Switzerland to Dulles International Airport, within the Eastern District of Virginia.

61. On or about November 23, 2009, at Dulles International Airport, within the Eastern District of Virginia, upon his return to the United States, Andrew B. Silva falsely stated to a U.S. Customs Inspector that he had not recently mailed any U.S. currency from Switzerland into the United States.

62. On or about November 30, 2009, defendant FELIX M. MATHIS closed, or caused to be closed, Andrew B. Silva's undeclared Swiss account at International bank by withdrawing, or causing to be withdrawn, \$13,522 in U.S. currency.

63. On or about December 11, 2009, defendant FELIX M. MATHIS met with Client A in Zurich, Switzerland to discuss closing Client A's undeclared Swiss account that was then worth in excess of \$200,000.

64. On or about December 11, 2009, during a meeting in Zurich, Switzerland, the defendant FELIX M. MATHIS provided Client A with \$200,000 in U.S. currency consisting of two individually wrapped "bricks" of \$100,000 of sequentially numbered, new \$100 bills and a third bundle of sequentially numbered, new \$100 bills.

65. On or about December 11, 2009, during a meeting in Zurich, Switzerland, Client A instructed the defendant, FELIX M. MATHIS, to donate to charity the money from his undeclared Swiss account.

66. On or about December 11, 2009, during a meeting in Zurich, Switzerland, Client A informed the defendant, FELIX M. MATHIS, that there could be a problem with U.S. authorities; in response, the defendant, FELIX M. MATHIS, told Client A that if there were a problem or investigation that Client A should send him a postcard with the coded message: "The food was bad on the airplane."

(All in violation of Title 18, United States Code, Section 371.)

COUNT TWO
(Structuring)

THE GRAND JURY CHARGES THAT:

67. The allegations contained in paragraphs 1 through 11 and 25 through 66 are realleged and incorporated herein.

68. On or about October 12, 2009, within the Eastern District of Virginia and elsewhere, the defendant FELIX M. MATHIS did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5316, and the regulations promulgated thereunder, assist in structuring any importation and exportation of monetary instruments, and did so while violating another law of the United States, to wit: Title 18, United States Code, Section 371, as alleged in Count One of the Indictment, by providing Andrew B. Silva with \$115,000 in U.S. currency and assisting Andrew B. Silva in mailing 13 envelopes each containing amounts less than \$10,000 from Swiss Post offices in Zurich, Switzerland to the residence of Andrew B. Silva in Sterling, Virginia, within the Eastern District of Virginia.

(All in violation of Title 31, United States Code, Sections 5324(c)(3) and 5324(d)(2).)

COUNT THREE
(Structuring)

THE GRAND JURY CHARGES THAT:

69. The allegations contained in paragraphs 1 through 11 and 25 through 66 are realleged and incorporated herein.

70. On or about November 21, 2009, within the Eastern District of Virginia and elsewhere, the defendant FELIX M. MATHIS did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5316, and the regulations promulgated thereunder, assist in structuring any importation and exportation of monetary instruments, and did so while violating another law of the United States, to wit: Title 18, United States Code, Section 371, as alleged in Count One of the Indictment, by providing Andrew B. Silva with approximately \$120,000 in U.S. currency that he mailed in 13 envelopes each containing amounts less than \$10,000 from Swiss Post offices in Zurich, Switzerland to his residence in Sterling, Virginia, within the Eastern District of Virginia.

(All in violation of Title 31, United States Code, Sections 5324(c)(3) and 5324(d)(2).)

Dated this 15th day of July 2010

A TRUE BILL

Pursuant to the F-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

FOREPERSON OF THE GRAND JURY

Neil H. MacBride
United States Attorney

By:


Mark D. Lytle
Assistant United States Attorney

John A. Diccio
Acting Assistant Attorney General
Tax Division

By: *Mark F. Daly* by *MDJ* 7/15/10

Kevin M. Downing
Senior Trial Attorney

Mark F. Daly
John E. Sullivan
Trial Attorneys

JS 45 (01/2008)

REDACTED

Criminal Case Cover Sheet

U.S. District Court

Place of Offense: _____ Under Seal: Yes ___ No **X** Judge Assigned: LMB
 City Alexandria Superseding Indictment _____ Criminal Number: 10CR260
 County/Parish Alexandria County Same Defendant _____ New Defendant _____
 Magistrate Judge Case Number _____ Arraignment Date: _____
 Search Warrant Case Number _____
 R 20/R 40 from District of _____
 Related Case Name and No: U.S. v. Silva, 1:10CR00044-001

Defendant Information:

Juvenile -- Yes ___ No **x** FBI # _____
 Defendant Name: Felix Maria Mathis Alias Name(s) _____
 Address: _____ Ztirich, Switzerland _____
 Employment: Attorney - Froriep Renggli _____
 Birth date ____/1953 SS# _____ Sex M Def Race _____ Nationality Swiss Place of Birth _____
 Height _____ Weight _____ Hair _____ Eyes _____ Scars/Tattoos _____
 Interpreter: **X** No ___ Yes List language and/or dialect: _____ Automobile Description _____

Location Status:

Arrest Date _____
 ___ Already in Federal Custody as of _____ in _____
 ___ Already in State Custody ___ On Pretrial Release **X** Not in Custody
x Arrest Warrant Requested ___ Fugitive ___ Summons Requested
 ___ Arrest Warrant Pending ___ Detention Sought ___ Bond _____

Defense Counsel Information:

Name: Patrick P. O'Donnell ___ Court Appointed Counsel conflicted out: _____
1200 18th Street N.W., 12th
Floor
 Address: Washington, DC 20036 ___ Retained _____
 Telephone: (202) 730-1312 ___ Public Defender Federal Public Defender's Office conflicted out: No

U.S. Attorney Information:

AUSA Mark Lytle Telephone No: _____ Bar # _____
 SAUSA Mark Daly Telephone No: (202) 616-2245 Bar # MA 640581

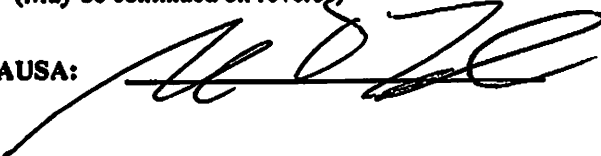
Complainant Agency, Address & Phone Number or Person & Title:

Scott Reynolds, IRS - Criminal Investigation, (703) 647-5508

U.S.C. Citations:

	<u>Code/Section</u>	<u>Description of Offense Charged</u>	<u>Count(s)</u>	<u>Capital/Felony/Misd/Petty</u>
Set 1	<u>18 U.S.C. 371</u>	<u>Conspiracy</u>	<u>1</u>	<u>Felony</u>
Set 2	<u>31 U.S.C. 5324</u>	<u>Structuring</u>	<u>2</u>	<u>Felony</u>
Set 3	_____	_____	_____	_____

(May be continued on reverse)

Date: 7/14/10 Signature of SAUSA: 

**U.S. District Court
Eastern District of Virginia - (Alexandria)
CRIMINAL DOCKET FOR CASE #: 1:10-cr-00260-LMB-1**

Case title: USA v. Mathis

Date Filed: 07/15/2010

Assigned to: District Judge Leonie M.
Brinkema

Defendant (1)**Felix M. Mathis**

represented by **Patrick Pearse O'Donnell**
Harris Wiltshire & Grannis
1200 18th St NW
Washington, DC 20036
(202) 730-1300
Email: podonnell@harriswiltshire.com
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

18:371 Conspiracy (Ct 1: 12/2009)
(1)

31:5324(c)(3) and 5324(d)(2)
Structuring (Ct 2: 10/12/2009)(Ct 3:
11/21/2009)
(2-3)

Disposition**Highest Offense Level (Opening)**

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **Mark Lytle**

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 2100 Jamieson Ave
 Alexandria, VA 22314
 (703)299-3700
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/15/2010	<u>1</u>	INDICTMENT as to Felix M. Mathis (1) count(s) 1, 2-3. (Attachments: # <u>1</u> Criminal Cover Sheet) (jlan) (Entered: 07/15/2010)
07/15/2010	<u>2</u>	Arrest Warrant Issued in case as to Felix M. Mathis. (jlan) (Entered: 07/15/2010)

PACER Service Center			
Transaction Receipt			
08/05/2010 13:53:29			
PACER Login:	db0193	Client Code:	
Description:	Docket Report	Search Criteria:	1:10-cr-00260-LMB
Billable Pages:	1	Cost:	0.08