

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

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UNITED STATES OF AMERICA	:	
	:	
v.	:	
	:	Criminal No.: _____
ANTHONY L. HURLEY,	:	
	:	
Defendant.	:	
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**CRIMINAL INFORMATION**

**The United States Attorney charges:**

**BACKGROUND**

At all times relevant to this Criminal Information:

**The Company**

1. Enterasys Network Systems, Inc., (“Enterasys”) was a Delaware corporation headquartered in Rochester, New Hampshire. The primary business of Enterasys and its affiliated companies was designing and selling hardware and software systems for computer networks and providing related support services.

2. Enterasys was a publicly traded company and its stock was traded under the symbol “ETS” on the New York Stock Exchange, a national securities exchange. Enterasys succeeded Cabletron Systems, Inc. (“Cabletron”) when the two companies merged on August 6, 2001.

**The Defendant**

3. At all relevant times, defendant ANTHONY L. HURLEY (“HURLEY”) was Enterasys’ Assistant Controller and had substantial responsibilities relating to the preparation of

Enterasys' financial statements and periodic filings with the Securities and Exchange Commission. Defendant HURLEY worked principally out of Enterasys' Rochester, New Hampshire, headquarters office, and was employed by Enterasys and Cabletron from on or about October 19, 1998, to on or about November 22, 2002.

**COUNT ONE**  
**Wire Fraud**  
**18 U.S.C. §§ 1343, 1346 and 2**

4. On or about October 16, 2001, in the District of New Hampshire and elsewhere, defendant HURLEY, for the purpose of executing a scheme and artifice to defraud, and to deprive Enterasys of its intangible right of honest services, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, did knowingly transmit, and caused others to transmit, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, in that he caused Enterasys to transmit by wire from Rochester, New Hampshire, to a financial publishing company in Boston, Massachusetts, final approval to file with the Securities and Exchange Commission a Form 10-Q for Enterasys' fiscal quarter ended September 1, 2001. At the time of such transmission, defendant HURLEY knew that the financial statements that Enterasys submitted with the Form 10-Q reported at least \$3.5 million in net revenue from a transaction between Enterasys and a customer known as Ariel International Technologies Co., Ltd, which did not qualify for revenue recognition.

All in violation of Title 18, United States Code, Sections 1343, 1346 and 2.

Dated: May 18, 2004

PETER E. PAPPS  
Acting United States Attorney

By:

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William E. Morse  
Assistant United States Attorney