

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA
T

I N D I C T M E N T

- against -

Cr. No. _____

§§ 78j(b),
TOMO RAZMILOVIC,
T. 18,
KENNETH JAEGGI,
BRIAN BURKE,
MICHAEL DEGENNARO,
FRANK BORGHESE,
LEONARD GOLDNER,
CHRISTOPHER DESANTIS and
JAMES HEUSCHNEIDER,

(T. 15, U.S.C.,
78m(a) and 78ff;
U.S.C., §§ 371,
981(a)(1)(C),
1341, 1343,
2 and 3551 et
seq.; T. 21,
U.S.C., §
853(p); T. 26,
U.S.C., §§ 7201
and 7206(1);
T. 28, U.S.C., §
2461(c))

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment,
unless otherwise indicated:

I. Background

A. The Company

1. Symbol Technologies, Inc. ("Symbol") was a Delaware corporation headquartered and with its principal place of business located in Holtsville, New York. Symbol was one of the world's leading manufacturers and distributors of wireless and mobile computing and bar code reading devices as well as other networking systems. Symbol's reported revenues for the calendar years 2000, 2001 and 2002 were approximately \$1.45 billion, \$1.453 billion and \$1.32 billion, respectively. As a result of fraudulent practices at Symbol, some of which are described more fully below, on December 30, 2003, Symbol restated its revenues for the calendar years 2000 through 2002. Symbol's restated revenues for the calendar years 2000, 2001 and 2002 totaled approximately \$1.21 billion, \$1.487 billion and \$1.4 billion, respectively.

2. Symbol sold its products and services directly to end-users, as well as to distributors and

value-added resellers ("VARs") that resold Symbol's products to end-users. These distributors and VARs were sometimes referred to as "channel partners" because they provided a channel through which Symbol's products were distributed from Symbol to end-users. In 2000 and 2001, Symbol's sales to channel partners accounted for more than 60 percent of Symbol's total sales.

3. Symbol was a publicly traded corporation, the common stock of which was traded on the New York Stock Exchange under the trading symbol "SBL." Symbol's shareholders were located throughout the United States, including in the Eastern District of New York.

B. The Defendants and Co-Conspirators

4. The defendant TOMO RAZMILOVIC was employed by Symbol beginning in 1989. In 1995, RAZMILOVIC became Symbol's President and Chief Operating Officer. On July 1, 2000, RAZMILOVIC became Symbol's Chief Executive Officer. RAZMILOVIC

left Symbol in February 2002.

5. The defendant KENNETH JAEGGI was employed by Symbol as the Senior Vice President of Finance and Chief Financial Officer from May 1997 to December 2002.

6. The defendant BRIAN BURKE was employed by Symbol beginning in 1987. BURKE held various positions at Symbol, including Senior Vice President and Corporate Controller, Chief Accounting Officer, Senior Vice President of Worldwide Operations and, most recently, Senior Vice President of Corporate Development. BURKE left Symbol in May 2002.

7. The defendant MICHAEL DEGENNARO was employed by Symbol as Senior Vice President of Finance from October 2000 to September 2002.

8. The defendant FRANK BORGHESE was employed by Symbol beginning in 1988. BORGHESE held various positions at Symbol including, most recently, Senior Vice President and General Manager of Worldwide Sales and Services. BORGHESE left Symbol in December 2001.

9. The defendant LEONARD GOLDNER joined Symbol in 1990 as the company's Senior Vice President and General Counsel. GOLDNER became an Executive Vice President of Symbol in 2001. GOLDNER left Symbol in June 2003.

10. The defendant CHRISTOPHER DESANTIS was employed by Symbol beginning in 1995 and held various positions at Symbol, including Director of Operations Finance and, most recently, Vice President of Finance. DESANTIS left Symbol in December 2001.

11. The defendant JAMES HEUSCHNEIDER was employed by Symbol beginning in 1993 and held various positions at Symbol, including, most recently, Director of Finance. HEUSCHNEIDER left Symbol in January 2003.

12. Robert Korkuc held various positions at Symbol, including Director of Corporate Accounting and, most recently, Chief Accounting Officer. Korkuc left Symbol in March 2003.

13. Robert Asti held various positions at Symbol, including Vice President of Finance and

Operations for the Americas - Sales and Services ("TASS"), and, most recently, Vice President of Worldwide Sales and Finance. Asti left Symbol in March 2001.

14. Robert Donlon joined Symbol in 1989. Donlon held various positions at Symbol, including, most recently, Director of Sales Operations. Donlon left Symbol in April 2003.

15. James Dean held various finance-related positions at Symbol, including, most recently, Director of Finance. Dean left Symbol in June 2003.

16. Gregory Mortenson held various positions at Symbol, including Financial Manager for TASS, Director of Finance for TASS and, most recently, Senior Director of Finance. Mortenson left Symbol in March 2003.

C. Certain Relevant Accounting Principles

17. As a public company, Symbol was required to comply with the rules and regulations of the United States Securities and Exchange Commission

(the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public.

18. Under the SEC's rules and regulations, Symbol and its officers were required to (a) make and keep books, records and accounts which, in reasonable detail, fairly and accurately reflected the company's business transactions, including its revenues and expenses; (b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles ("GAAP"); and (c) file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) that included financial statements that accurately presented Symbol's financial condition and the results of its business operations in accordance with GAAP.

19. In Symbol's annual report on Form 10-K for the year 2000, Symbol's accounting policy concerning its revenue recognition practices was set forth as follows:

Revenue related to sales of the Company's products and systems is generally recognized when products are shipped or services are rendered, the risk of loss has passed to the customer, the sales price is fixed or determinable, and collectibility is reasonably assured.

This policy, as stated, was consistent with the GAAP rules for revenue recognition.

D. The Consensus Estimate and the Culture at Symbol

20. For each financial reporting period, professional stock analysts estimated what they believed would be Symbol's revenue during the period and predicted the earnings per share of Symbol's stock. The average of the estimates of the professional analysts was commonly referred to as the "Consensus Estimate."

21. The Consensus Estimate predicted

Symbol's revenues and earnings, but did not consider or include the impact of non-recurring one-time charges such as restructuring expenses and relocation costs. Non-recurring expenses, because they were one-time charges not characteristic of ordinary business expenses, were routinely discounted by the investing public in assessing a company's overall financial performance.

22. Symbol's quarterly financial statements reported revenues and earnings, excluding non-recurring charges, that met or exceeded the Consensus Estimate for 32 consecutive quarters from the mid-1990s through the first quarter of 2001. Moreover, after missing the Consensus Estimate for the second quarter of 2001, Symbol's quarterly financial statements for the third and fourth quarter of 2001 reported revenues and earnings, excluding non-recurring charges, that again met or exceeded the Consensus Estimate for those quarters.

23. In order to maintain Symbol's record of meeting or exceeding the Consensus Estimate, the

defendant TOMO RAZMILOVIC established ambitious, and often unrealistic, financial performance targets for every Symbol division, and aggressively enforced those targets, rewarding those who met their targets and punishing those who failed to meet them. It was the responsibility of the Symbol executives below RAZMILOVIC, including the defendants KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE, CHRISTOPHER DESANTIS and JAMES HEUSCHNEIDER, to ensure that the divisions for which they had responsibility met these targets. Indeed, many executives' salaries and bonuses were tied to achieving these targets.

II. The Securities Fraud Scheme

24. The defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE, CHRISTOPHER DESANTIS and JAMES HEUSCHNEIDER, together with Robert Korkuc, Robert Asti, Robert Donlon, James

Dean, Gregory Mortenson and others, devised and carried out a scheme to defraud the investing public by materially misrepresenting Symbol's quarterly and annual revenues, expenses and earnings reported on Form 10-Qs and Form 10-Ks, which overstated Symbol's revenues and earnings, and understated Symbol's expenses. As set forth in greater detail herein, the scheme involved the following components: (1) the generation of bogus and prematurely recognized revenue; (2) the manipulation of Symbol's corporate books and records through top-side corporate journal entries; (3) the fabrication and utilization of improper restructuring expenses and "cookie jar" reserves; and (4) the creation of fraudulent accounting entries in the Customer Service accounts of Symbol's corporate books and records and the improper recognition of revenue in Customer Service accounts. The central goal of the scheme was to ensure that Symbol consistently reported that its revenues and earnings had met or exceeded the Consensus Estimate when, in truth, Symbol had not met

the Consensus Estimate.

A. Improper Revenue Recognition

1. Channel Stuffing

25. The defendants TOMO RAZMILOVIC, KENNETH JAEGGI, FRANK BORGHESE and CHRISTOPHER DESANTIS, together with others, caused Symbol to overstate its quarterly revenue and earnings through systematic "channel stuffing" transactions entered into at or near the end of each fiscal quarter. Through these channel stuffing transactions, Symbol purported to sell products to certain VARs and distributors even though the VARs and distributors had no firm obligation to pay for the products they purportedly purchased. Symbol then recognized as revenue amounts associated with these transactions, in contravention of GAAP and Symbol's own stated revenue recognition policy.

26. As part of its channel stuffing, Symbol granted to certain distributors and VARs (a)

the right not to pay for products it purported to purchase unless and until the distributor or VAR resold the products ("Contingent Payment Terms"), and/or (b) the unconditional and guaranteed right to return the products without paying for them ("Return Rights"). Although the specific Contingent Payment Terms and Return Rights varied from transaction to transaction, in each case they effectively nullified the purported buyer's obligation to pay for the products.

27. Symbol regularly entered into such end-of-quarter transactions with channel partners that were known at the company as "Friends of Frank." These channel partners were referred to as "Friends of Frank" because they were VARs and distributors with whom the defendant FRANK BORGHESE had developed a special relationship that enabled BORGHESE and his co-conspirators to use these VARs and distributors for channel stuffing transactions. Among the many channel stuffing transactions in which Symbol falsely and fraudulently recognized revenue

were the following:

a. At the end of the first, second and third fiscal quarters of 2000, and at the end of the first fiscal quarter of 2001, Symbol solicited and entered into channel stuffing transactions with a distributor located in South America ("Distributor #1"), in which Distributor #1 placed multi-million dollar orders for products that Symbol had in its inventory, even though Distributor #1 had no need for the products. Indeed, Symbol personnel instructed Distributor #1 as to which products Distributor #1 was to order. Moreover, instead of shipping the products to Distributor #1 in South America, Symbol merely stored the products in warehouses in New York (the "Warehoused Products"). Symbol and Distributor #1 agreed that Distributor #1 (i) had no obligation to pay for the Warehoused Products, and (ii) could "exchange" the Warehoused Products at no cost when it placed new orders for products it actually needed. Despite these terms, which were hidden from Symbol's outside auditors, Symbol fraudulently recognized and

reported over \$16 million in revenue from these transactions which were represented to be legitimate purchases of Symbol products by Distributor #1.

b. At the end of the second and third fiscal quarters of 2000 and the first and second fiscal quarters of 2001, Symbol solicited and entered into multi-million dollar channel stuffing transactions with a VAR ("VAR #1"). In these transactions, Symbol agreed that VAR #1 would not be required to pay for any Symbol products it could not resell and that VAR #1 could return any products it was unable to resell. Despite these terms, which were hidden from Symbol's outside auditors, Symbol fraudulently recognized and reported more than \$20 million in revenue from these transactions, which were represented to be legitimate and final purchases of Symbol products by VAR #1.

c. At the end of the third fiscal quarter of 2000, Symbol solicited and entered into an approximately \$5 million channel stuffing transaction with a VAR ("VAR #2). In this transaction, Symbol

agreed that VAR #2 could return any products it was unable to resell at no cost to VAR #2 and that VAR #2 would receive an additional payment of one percent of the value of whatever products it returned. In fact, Symbol never even shipped the products to VAR #2, and, consequently, VAR #2 never returned any products purportedly purchased in this transaction to Symbol. Nonetheless, in December 2000, Symbol gave VAR #2 a \$50,000 rebate, reflecting the one percent payment for the channel stuffing transaction. Despite these terms, which were hidden from Symbol's outside auditors, Symbol fraudulently recognized and reported the revenue purportedly earned in this transaction in the third fiscal quarter of 2000.

d. At the end of the first fiscal quarter of 2001, Symbol solicited and entered into an approximately \$3.7 million channel stuffing transaction with a VAR ("VAR #3"). In this transaction, Symbol agreed that VAR #3 would not be required to pay for the products it purported to purchase until after VAR #3 was able to resell them

and that VAR #3 could return any products it was unable to resell. Symbol entered into this agreement even though the amount of the purchase order exceeded VAR #3's annual revenue and VAR #3 did not have a customer to purchase the Symbol products. Despite these terms, which were hidden from Symbol's outside auditors, Symbol fraudulently recognized and reported revenue from this transaction, which was represented to be a legitimate purchase of Symbol products by VAR #3, in the first fiscal quarter of 2001.

e. At the end of the second fiscal quarter of 2001, Symbol solicited and entered into an approximately \$3.6 million channel stuffing transaction with a VAR ("VAR #4"). In this transaction, Symbol agreed that VAR #4 would not be required to pay for the products it purported to purchase until after VAR #4 was able to resell the products and that VAR #4 could return any products it was unable to resell. Symbol also credited VAR #4's account by approximately \$17,000 to cover VAR #4's increased insurance premiums for the Symbol products

that VAR #4 would have to store. Despite these terms, which were not disclosed to Symbol's outside auditors, Symbol fraudulently recognized and reported revenue from this transaction, which was represented to be a legitimate purchase of Symbol products by VAR #4, in the second fiscal quarter of 2001.

2. Concealing the Channel Stuffing Transactions

28. Because the "Friends of Frank" channel partners were not obligated to pay, and therefore did not pay, for the large volume of products that Symbol purported to sell them in channel stuffing transactions, Symbol's accounts receivable balance grew in both amount and age-past-due. Consequently, Symbol's Days-Sales-Outstanding figure ("DSO"), a calculation based upon the size and age of a company's accounts receivable balance, grew dramatically during 2000 and early 2001. Symbol's DSO was consistently examined and reported upon by stock analysts, and its continued growth, which would have exposed Symbol's channel stuffing scheme to the

investing public, was a matter of great concern for Symbol executives.

29. To reduce the DSO artificially, so as to conceal the channel stuffing scheme from the investing public, in or about the second fiscal quarter of 2001, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE and CHRISTOPHER DESANTIS, together with others, established and implemented a scheme by which "Friends of Frank" channel partners were asked to sign promissory notes promising to pay Symbol the amount purportedly due on their respective accounts. This enabled Symbol to reclassify the accounts receivables attributable to channel stuffing transactions as debt. These notes did not, however, alter any of the Contingent Payment Terms or Return Rights that were part of the channel stuffing transactions.

30. By reclassifying accounts receivable as debt, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK

BORGHESE and CHRISTOPHER DESANTIS, together with others, were able to reduce Symbol's DSO by more than 25 percent, from 119 days at the end of the second quarter of 2001 to 89 days at the end of the third quarter of 2001. This misleading reclassification of accounts receivable as debt was not disclosed to the investing public.

3. Candy Deals

31. Another fraudulent technique used to overstate Symbol's quarterly revenues and earnings involved transactions that were commonly referred to as "Candy Deals." In these Candy Deals, Symbol persuaded VARs to purchase Symbol products from a distributor ("Distributor #2) even though the VARs did not have customers for the products. To induce the VARs to make such orders, Symbol promised (a) to repurchase the products from the VARs at the price the VARs paid to Distributor #2, and (b) to pay the VARs an additional one percent of the purchase price.

32. In these Candy Deals, Symbol did not

sell the products directly to a VAR. Rather, Symbol sold products to Distributor #2, which then either resold the products to the VAR or used the products to restock its supply of Symbol products and then sold other Symbol products from its inventory to the VAR.

33. The defendants KENNETH JAEGGI, BRIAN BURKE and FRANK BORGHESE, together with others, caused Symbol to recognize more than \$10 million in revenues in connection with Candy Deals in the first two fiscal quarters of 2000, notwithstanding the fact that JAEGGI, BURKE and BORGHESE knew that the transactions generated no net income for Symbol. On the contrary, the defendants knew that the Candy Deals resulted in a net loss to Symbol because (a) the prices the VARs paid to Distributor #2 for the products were higher than the prices Distributor #2 had paid Symbol for the products, which meant that Symbol had to repurchase the products at a price greater than the price at which it had sold the products, and (b) Symbol paid the VARs an additional

one percent bonus to participate in the Candy Deals. The Candy Deals in which Symbol falsely and fraudulently recognized revenue included the following:

a. At the end of the first fiscal quarter of 2000, Symbol induced a VAR ("VAR #5") to purchase \$1,949,700.10 of Symbol products from Distributor #2. Symbol agreed that it would repurchase the products from VAR #5 at the same price VAR #5 paid Distributor #2, and would pay VAR #5 an additional one percent bonus. Symbol then induced Distributor #2 to place a corresponding order with Symbol, the revenue from which was recognized during the first fiscal quarter of 2000.

b. Also at the end of the first quarter of 2000, Symbol induced a VAR ("VAR #6") to purchase \$1,874,276.20 of Symbol products from Distributor #2. Symbol agreed that it would repurchase the products from VAR #6 at the same price VAR #6 paid Distributor #2, and would pay VAR #6 an additional one percent bonus. Symbol then induced

Distributor #2 to place a corresponding order with Symbol, the revenue from which was recognized during the first fiscal quarter of 2000.

4. Recognizing Revenue on the Intentional Shipment of the Wrong Product

34. Another fraudulent technique used to overstate Symbol's quarterly revenue and earnings involved the deliberate shipment to a customer of the wrong Symbol products at or near the end of quarters when the Symbol products that the customer actually wanted were unavailable. Later, when the products that the customer actually wanted became available, Symbol either canceled the prior shipment or accepted the return of the wrong products, and then shipped the correct products to the customer. In this way, Symbol prematurely recognized revenue for legitimate orders.

35. For example, in June 2000, Symbol entered into a sham transaction with an end-user ("End-user #1") and a VAR ("VAR #7") involving approximately \$3.8 million of Symbol products that End-user #1 wanted but which would not be available

for shipment until after the end of the fiscal quarter. For the purpose of fraudulently and prematurely recognizing revenue from the sale of these products to End-user #1 in the second fiscal quarter of 2000, Symbol induced VAR #7 to act as an intermediary in the transaction and to place an order in June 2000 for \$3.8 million of available Symbol products that neither VAR #7 nor End-user #1 wanted. Symbol agreed that VAR #7's bogus order would be canceled and replaced in the following quarter by a genuine order for the products that End-user #1 actually wanted, once the desired products became available.

5. Recognizing Revenue On Products That Were Not Shipped by the End of a Quarter

36. Another fraudulent technique used to overstate Symbol's quarterly revenues and earnings involved sales of Symbol products that were ordered by customers within a fiscal quarter but were not actually shipped to the customers within that quarter. Under GAAP and Symbol's own stated revenue

recognition policy, revenue resulting from such transactions should not have been recognized until the products actually were shipped. However, despite Symbol's failure to ship the products by the end of the quarter, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE and CHRISTOPHER DESANTIS, together with others, improperly caused Symbol to recognize revenue on the products in that quarter.

37. Moreover, in an effort to disguise Symbol's contravention of GAAP and its own stated revenue recognition policy, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE and CHRISTOPHER DESANTIS, together with others, caused Symbol to obtain phony "ship-in-place" letters (also known as "bill-and-hold" letters) from its customers. These bogus letters stated, in substance, that the customer wanted Symbol to hold the products at Symbol facilities rather than ship the products to the customer, and were relied on as a justification for

recognizing revenue notwithstanding the failure to ship the product. In reality, these letters were obtained after-the-fact and were back-dated to create the appearance that the customer had requested that Symbol hold the products in question, when, in fact, the customer had made no such request. In some instances, these "ship-in-place" letters were obtained months after the Symbol customer had received and paid for the Symbol product. The phony "ship-in-place" transactions included the following:

- a. At the end of the first fiscal quarter of

2001, Symbol recognized and reported revenue on an approximately \$859,615 in connection with a sale of Symbol products to a VAR ("VAR #8") in which the products were not shipped to VAR #8 until after the end of the quarter. Despite the fact that VAR #8 had never requested that Symbol hold the products rather than ship them, Symbol obtained a phony "ship-in-place" letter from VAR #8 in or about June 2001, which was backdated to March 30, 2001.

b. At the end of the first fiscal quarter of 2001, Symbol recognized and reported revenue of \$1,107,877 in connection with the sale of Symbol products to Distributor #2 in which the products were not shipped to Distributor #2 until after the end of the quarter. Despite the fact that Distributor #2 had never requested that Symbol hold the products rather than ship them, Symbol obtained a phony "ship-in-place" letter from Distributor #2 in or about June 2001, which was backdated to March 29, 2001.

c. At the end of the first fiscal quarter of 2001, Symbol recognized and reported revenue of approximately \$407,369 in connection with the sale of Symbol products to VAR #3 in which the products were not shipped to VAR #3 until after the end of the quarter. Despite the fact that VAR #3 had never requested that Symbol hold the products rather than ship them, Symbol obtained a phony "ship-in-place" letter from VAR #3 in or about the third fiscal quarter of 2001, which was backdated to March

29, 2001.

B. Improper Tango Adjustments

38. The defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO, together with others, also caused Symbol to overstate its quarterly revenues and earnings and understate its expenses through bogus accounting journal entries. This technique was known by the defendants and their co-conspirators as the "Tango" process. As set forth in greater detail below, in the Tango process, Symbol's raw quarterly financial results, including expenses, revenues and earnings, were manipulated and fraudulently adjusted by bogus accounting journal entries in order to create the false appearance that Symbol had met the Consensus Estimate.

39. As part of the quarterly closing process at Symbol, the company's raw results from each of its divisions were collected and consolidated. Then, in the Tango process, the consolidated raw numbers were compared to quarterly

forecasts that Symbol's management had provided to the company's Board of Directors (the "Board forecasts"). Because the defendant KENNETH JAEGGI and other participants in the Tango process closely monitored the predictions of the professional stock analysts who followed Symbol, the Board forecasts were typically consistent with the Consensus Estimate.

40. The Tango process was summarized in what were known by the defendants and their co-conspirators as "Tango sheets." The Tango sheets listed the raw results and Board forecasts, as well as various proposed accounting journal adjustments, known as "Tango adjustments," which were designed to adjust Symbol's raw results to meet or exceed the Board forecasts. Symbol reported the fraudulently adjusted results to the public in its Form 10-Qs and Form 10-Ks.

41. The defendant BRIAN BURKE devised the Tango process in the mid-1990s and coined the phrase "Tango" to describe the dance done at Symbol to meet

the projected revenue and earnings targets. From at least 1997 through the second fiscal quarter of 2002, improper Tango adjustments were made and approved by the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO, together with others, as part of the overall scheme to overstate Symbol's revenue and earnings, and without regard to whether the adjustments accurately reflected Symbol's financial condition or were made in compliance with GAAP or Symbol's accounting policies. The nature, size and timing of the Tango adjustments depended on the variation between Symbol's raw results and the Board forecasts, as well as on the opportunities for fraudulent manipulation that the defendants and their co-conspirators were able to identify.

42. The fraudulent Tango adjustments included the following:

1. The Credit Memo Reserve
 - a. Symbol maintained a credit memo reserve account in its accounting journals. The credit memo reserve account was designed to account

for potential future reductions in recognized revenue resulting from customers' return of Symbol products. Accordingly, increases to this reserve decreased Symbol's reported revenue by a corresponding amount. As part of the Tango process, Symbol's credit memo reserve account was fraudulently manipulated in order to meet the Board forecasts and the Consensus Estimate.

b. For example, as part of the Tango process for the first fiscal quarter of 2000, co-conspirator Robert Korkuc determined that the credit memo reserve account should properly have been increased by \$13.7 million. However, in order to achieve reported revenues totaling \$320 million for the first fiscal quarter of 2000, a figure consistent with the Board forecast, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE caused Symbol's credit memo reserve account to be increased by only \$10.5 million, which allowed Symbol to report the desired revenue figure. This increase was approximately \$3.2 million less than the increase

that should have been recorded based upon the expected product returns.

c. Similarly, as part of the Tango process for the first fiscal quarter of 2002, the credit memo reserve was reduced by \$2 million in order to, in the words of defendant KENNETH JAEGGI, make Symbol's revenue number "begin with a three." Without the improper Tango adjustment, Symbol's reported revenue for the quarter would have been \$299.3 million, before extraordinary charges. Following the bogus Tango adjustment, Symbol's reported revenues were the desired \$301.3 million, before extraordinary charges.

2. The FICA Deferral

d. During the first fiscal quarter of 2000, Symbol paid bonuses to its employees for their work during 1999. As a result of paying these bonuses, Symbol incurred an obligation in the first fiscal quarter of 2000 to pay \$3.5 million in taxes under the Federal Insurance Compensation Act ("FICA"). Under GAAP, Symbol was required to

recognize and report this \$3.5 million expense in the first fiscal quarter of 2000, the quarter in which the obligation was incurred. However, as part of the Tango process, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE caused Symbol to defer the \$3.5 million FICA expense to the fourth fiscal quarter of 2000. This fraudulent deferral resulted in Symbol overstating its net earnings for the first fiscal quarter of 2000 by approximately \$2.4 million.

3. The SERP Reserve

e. Prior to 2000, various senior executives at Symbol participated in a Senior Executive Retirement Plan ("SERP"), under which Symbol was required to make annual contributions to the executives' retirement plans. In accordance with GAAP, a reserve was created in Symbol's books to account for the future annual SERP contributions. Beginning in or about 1999, a number of the senior executives elected, or purported to elect, to swap their SERP benefits for split-life insurance policies funded by Symbol. As a result of the swaps, Symbol

was no longer obligated to fund SERP benefits for those senior executives, leaving millions of dollars in the SERP reserve to be released. This release would have had the effect of increasing Symbol's net earnings.

f. Rather than establishing and disclosing a schedule for the release of these reserves as required by GAAP, Symbol utilized the SERP reserve to boost its earnings when its earnings would otherwise fall short of the Board forecasts. A reserve misused in this manner is sometimes referred to as a "cookie jar" reserve.

g. For example, during 1999 and 2000, a senior officer at Symbol elected to swap his SERP benefits over a three-year period in exchange for a split-life insurance policy funded by Symbol. As a result of this swap, Symbol should have established and disclosed a regular schedule to release \$4.5 million in the SERP reserves over a three-year period. Instead, as part of the Tango process, the defendants TOMO RAZMILOVIC, KENNETH

JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO caused Symbol to release portions of the \$4.5 million when needed to adjust the company's raw results to meet Board forecasts. Thus, the \$4.5 million was released in the following manner: \$1.5 million for the third fiscal quarter of 1999; \$1.5 million for the first fiscal quarter of 2000; and \$1.5 million for the third fiscal quarter of 2001.

4. The Reclassification of Expenses

h. As a result of certain channel stuffing transactions in which VARs and distributors were granted preferential pricing terms, as well as other adverse business conditions, Symbol's gross profit margin on its products was negatively affected. One of the Tango adjustments frequently employed by the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO to conceal the negative impact on Symbol's gross margin was the improper reclassification of expenses from "cost of sales" to "operating expenses." The effect of reclassifying the expenses in this manner was to

increase the gross margin that Symbol reported to the public, thereby covering up Symbol's adverse business conditions and channel stuffing transactions.

C. Manipulation of Non-Recurring Expenses and Cookie Jar Reserves

43. The defendants KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO and CHRISTOPHER DESANTIS, together with others, caused Symbol falsely to characterize routine operating expenses as non-recurring expenses. This mischaracterization of expenses violated GAAP and allowed Symbol to understate its reported routine operating expenses, which, in turn, allowed Symbol to overstate its financial performance in the eyes of professional stock analysts and the investing public.

44. The defendants KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO and CHRISTOPHER DESANTIS, together with others, also caused Symbol to create cookie jar reserves by recognizing and reporting certain non-recurring expenses that far exceeded the expenses that Symbol was likely to incur. These

cookie jar reserves violated GAAP and were created in order to allow Symbol fraudulently to overstate its financial performance in subsequent reporting periods by reversing part or all of the reserves in those periods. The defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO, together with others, frequently utilized these and other cookie jar reserves in the Tango process, when needed, to adjust Symbol's raw results to meet or exceed the Board forecasts.

1. Fourth Quarter 2000 - the Telxon Acquisition

45. In the fourth fiscal quarter of 2000, Symbol recognized and reported non-recurring restructuring charges of approximately \$185.9 million, purportedly related to Symbol's acquisition of a competitor, Telxon Corporation ("Telxon"), in December 2000. In a February 27, 2001 press release announcing its fourth quarter 2000 results, Symbol

reported that "[n]et income, before non-recurring charges associated with the acquisition of [Telxon] was \$23.5 million" The non-recurring restructuring charges included at least \$80.3 million in expenses that were reported in violation of GAAP, were mischaracterized ordinary expenses, or were overstated in order to create a cookie jar reserve for use in later quarters.

a. Inventory Charge

46. In the fourth fiscal quarter of 2000, as part of the \$185.9 million restructuring charge, the defendant MICHAEL DEGENNARO, together with others, caused Symbol to recognize and report a \$63.9 million inventory charge that purportedly arose out of Symbol's decision to eliminate redundant and discontinued products and product lines due to the Telxon acquisition. However, as DEGENNARO knew, almost none of the inventory items that made up the \$63.9 million charge were discontinued as a result of the Telxon acquisition.

47. Approximately two-thirds of the \$63.9

million inventory charge related to products in inventory that had been discontinued in the ordinary course of business, and thus could not properly be included in a restructuring charge. Approximately one-third of the \$63.9 million inventory charge, or \$20 million, was a cookie jar reserve derived from inventory items that had never been discontinued.

48. In the first fiscal quarter of 2001, the defendant MICHAEL DEGENNARO directed that \$5 million of the cookie jar reserve be reversed through a series of accounting entries that had the effect of reducing current period operating expenses and increasing earnings. DEGENNARO caused this \$5 million accounting adjustment to be concealed from Symbol's outside auditors by directing that two "Inventory Reserve Utilization" schedules be prepared, one that showed the true utilization of the reserve, and another, given to Symbol's auditors, that concealed the \$5 million adjustment within a larger charge for scrap inventory.

b. Severance Charge

49. Also in the fourth fiscal quarter of 2000, as part of the \$185.9 million restructuring charge, the defendants BRIAN BURKE, MICHAEL DEGENNARO and CHRISTOPHER DESANTIS, together with others, caused Symbol to recognize and report approximately \$14.1 million in severance and related employee termination expenses that were purportedly related to Symbol's acquisition of Telxon, but were, as the defendants knew, recognized and reported in violation of GAAP.

50. Under GAAP, an employer could recognize and report severance and termination expenses prior to the period in which the expenses were actually incurred only if the employer committed to a termination plan and informed its employees of the plan in the same financial reporting period in which the charges for those benefits were recognized. As the defendants BRIAN BURKE, MICHAEL DEGENNARO and CHRISTOPHER DESANTIS knew, by the end of the fourth fiscal quarter of 2000, when Symbol recognized the \$14.1 million in severance and related employee

termination expenses, Symbol had not committed to a termination plan and had not communicated any such plan to its employees.

51. Indeed, in February 2001, after the end of the fourth fiscal quarter of 2000, the defendant BRIAN BURKE, together with others, caused severance letters to be created that were backdated to December 31, 2000, in order to misrepresent that Symbol had complied with the GAAP requirements described above.

52. In addition, the defendant MICHAEL DEGENNARO caused \$1.8 million of routine inventory expenses relating to excessive and obsolete inventory to be concealed within the \$14.1 million severance charge.

c. Asset Impairment Charge

53. Also in the fourth fiscal quarter of 2000, as part of the \$185.9 million restructuring charge, the defendants BRIAN BURKE, MICHAEL DEGENNARO and CHRISTOPHER DESANTIS, together with others, caused Symbol to recognize a \$2.3 million asset

impairment charge for a Symbol facility located at 110 Wilbur Place in Bohemia, New York, that purportedly was to be vacated in connection with the Telxon acquisition. However, at the time this charge was recognized, Symbol had no plan to vacate the 110 Wilbur Place facility. In fact, Symbol has never vacated 110 Wilbur Place.

2. Second Quarter 2001 -
The Palms and Radios Write-off

54. In its quarterly report on Form 10-Q for the second fiscal quarter of 2001, Symbol reported a pre-tax non-recurring charge of \$110 million (\$67.1 million after tax) for a write-down of Symbol's "radio frequency infrastructure and systems inventory," that is, inventory related to wireless and mobile computing products known as "Palms and Radios". In a July 26, 2001 press release announcing its second quarter 2001 results, Symbol reported:

Net income, before a non-recurring charge, was \$7.5 million Including a non-recurring charge associated with an inventory write-down of \$67.1 million after tax, the net loss for the second quarter was \$59.6

million or \$0.27 per share.

55. The \$110 million charge was based on the purported lower demand for, and obsolescence, of Palm and Radio products. However, at least \$30 million of the charge was unrelated to Palms and Radios, and should not have been recorded as a non-recurring charge. Even though the defendants KENNETH JAEGGI and MICHAEL DEGENNARO knew there was no justification for a write-down for Palms and Radios inventory higher than \$80 million, JAEGGI and DEGENNARO, together with others, caused the full \$110 million reserve to be established.

56. The excess amount in the Palms and Radio inventory charge was used as a cookie jar reserve to increase Symbol's earnings in later quarters. For example, as part of the Tango process relating to the fourth fiscal quarter of 2001, the defendant TOMO RAZMILOVIC, KENNETH JAEGGI and MICHAEL DEGENNARO, together with others, caused the reversal of \$5 million of the reserve through an accounting entry that became part of a larger adjustment

inflating quarterly earnings.

3. Third Quarter 2001 - the
Relocation of Manufacturing Facilities

57. In the third fiscal quarter of 2001, Symbol reported a non-recurring restructuring charge of approximately \$59.7 million, purportedly related to Symbol's relocation of manufacturing operations to lower-cost locations in Mexico and the Far East. Symbol disclosed this charge in its Form 10-Q for the quarter ended September 30, 2001, stating that the "restructuring charge, which was recorded as a component of cost of revenue, includes workforce reduction and asset impairment costs." In an October 18, 2001 press release announcing its third quarter 2001 results, Symbol reported:

Net earnings, before a non-recurring charge, was \$12.6 million Additionally, the Company recorded a non-recurring pre-tax charge associated with the reorganization of the Company's manufacturing facilities of \$59.7 million, which resulted in a net loss for the third quarter of \$35.7 million or \$0.16 per share.

This non-recurring charge included at least \$21.9

million that was recognized in violation of GAAP.

58. In the third fiscal quarter of 2001, as part of the \$59.7 million restructuring charge, the defendants BRIAN BURKE and MICHAEL DEGENNARO, together with others, caused Symbol to recognize and report an asset impairment charge of \$16.2 million for the disposal of three facilities in Bohemia, New York, that purportedly was required by the relocation of manufacturing operations. The charge consisted of a 75 percent write-down of two leased facilities located at 110 Orville (\$9.9 million) and 1101 Lakeland (\$3.7 million), and one Symbol-owned facility located at 116 Wilbur Place (\$2.6 million). This charge violated GAAP because, at the time the charge was recognized, no disposal plan was established for these facilities, nor had any plans to vacate the facilities been adopted. In fact, no decision to vacate the two leased facilities was made until late 2001 or early 2002. The third facility - 116 Wilbur Place - was never vacated.

59. Also in the third fiscal quarter of

2001, as part of the \$59.7 million restructuring charge, the defendant MICHAEL DEGENNARO, together with others, caused Symbol to recognize and report an inventory impairment charge of \$5.7 million, consisting of \$1.2 million in inventory that Symbol had been holding for a potential sale to the French Post Office that never occurred, and \$4.5 million in other inventory held by Symbol for quality control review. These charges were included in the September 2001 restructuring charge even though the inventory at issue had been impaired in the ordinary course of Symbol's business, and was not related to the relocation of manufacturing operations.

60. Also in the third fiscal quarter of 2001, as part of the \$59.7 million restructuring charge, Symbol recognized and reported a severance charge of \$11 million purportedly associated with the termination of 375 employees. Although a Symbol employee calculated the actual severance expense to be approximately \$3 million, the defendant MICHAEL DEGENNARO caused the entire \$11 million charge to be

included in the September 2001 restructuring charge and instructed the Symbol employee to destroy the documents supporting the \$3 million calculation.

4. Fraudulent Operations Reserve

61. The defendants MICHAEL DEGENNARO, BRIAN BURKE and CHRISTOPHER DESANTIS, together with others, also created a fraudulent operations reserve account, known as "Account 9106," that was drawn upon at strategic times to boost quarterly earnings. On occasions, in fiscal quarters when expenses in Symbol's Operations division were lower than previously forecast, DEGENNARO, BURKE and DESANTIS, together with others, caused Symbol to hide the surplus in Account 9106. In this way, Operations division expense accruals were amassed over time that were drawn upon to offset poor financial performance in other quarters.

62. For example, as part of the Tango process relating to the fourth fiscal quarter of 2001, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE and MICHAEL DEGENNARO, together with

others, caused Symbol to release \$10 million from Account 9106, which correspondingly reduced Symbol's reported expenses by \$10 million. This release of the Account 9106 cookie jar, along with the release of \$5 million from the Palms and Radios cookie jar described in paragraph 56 above, along with other Tango adjustments, caused Symbol's net income for the fourth fiscal quarter of 2001, after taxes, to change from a net loss to a net gain and thereby allowed Symbol to meet the Board forecast and Consensus Estimate for that quarter.

D. Customer Service Improprieties

63. The fraudulent overstatement of Symbol's quarterly revenues and earnings extended to Symbol's Customer Service division, which provided maintenance and repair services for Symbol products, as well as other professional support services. To achieve revenue projections for the Customer Service division, and in violation of GAAP and Symbol's stated revenue recognition policies, the defendant JAMES HEUSCHNEIDER, together with others, caused

fraudulent accounting entries to be made to the Customer Service accounts in Symbol's general ledger, and caused Symbol to recognize revenue on customer service contracts improperly.

64. Under GAAP, revenue in connection with Customer Service contracts was properly recognized only when the services were rendered, the price was fixed or determinable, and collectibility was reasonably assured. Furthermore, under GAAP, where Customer Service contracts provided for services to be performed over a period of time, revenue under such contracts was properly recognized and reported ratably, or incrementally, throughout the contract term, and not immediately upon execution. As Symbol reported in its annual report on Form 10-K for the year 2000, "[s]ervice and maintenance sales are recognized over the contract term." Thus, under Symbol's revenue recognition procedures, at the time a service contract was executed the total amount of the contract was booked in a deferred revenue account. As Symbol performed services pursuant to

such contracts, Symbol's deferred customer service revenue account was to be debited and its current customer service revenue account was to be credited.

1. Unsupported Journal Entries

65. In violation of GAAP and Symbol's stated rules for recognition of customer service revenue, the defendant JAMES HEUSCHNEIDER, together with others, caused Symbol to overstate its quarterly revenues and earnings by making fraudulent accounting entries that were unsupported, in contravention of GAAP, and designed solely to achieve revenue and earnings forecasts. HEUSCHNEIDER, together with others, caused the following improper accounting entries to be made to Symbol's general ledger:

a. For the fourth fiscal quarter of 2001, the defendant JAMES HEUSCHNEIDER, together with others, caused a fraudulent accounting entry to be made to Symbol's general ledger that resulted in the improper transfer of \$3 million from deferred revenue to current revenue.

b. For the first fiscal quarter of 2002, the defendant JAMES HEUSCHNEIDER, together with others, caused a fraudulent accounting entry to be made to Symbol's general ledger that resulted in the improper transfer of approximately \$2.98 million from deferred revenue to current revenue.

c. For the second fiscal quarter of 2002, the defendant JAMES HEUSCHNEIDER, together with others, caused fraudulent accounting entries to be made to Symbol's general ledger that resulted in the improper transfer of approximately \$5.5 million from deferred revenue to current revenue.

2. Improper Recognition of Customer Service Revenue

66. The defendant JAMES HEUSCHNEIDER, together with others, also caused Symbol prematurely to recognize and report revenue on specific customer service contracts. For example, in the fourth fiscal quarter of 2001, Symbol entered into a three-year customer service contract with a customer ("Service Customer #1) for approximately \$16 million in which

Service Customer #1 prepaid \$1.7 million on the contract before year-end. Although the contract called for the services not to commence until May 2002, the defendant JAMES HEUSCHNEIDER, together with others, improperly caused Symbol to recognize and report as revenue the \$1.7 million that was prepaid in the fourth fiscal quarter of 2001, rather than apportion the contract revenue over the life of the contract starting in May 2002, as was required by GAAP.

67. The defendant JAMES HEUSCHNEIDER, together with others, also caused Symbol to report and recognize revenue on Customer Service contracts that had been canceled or otherwise had expired because they were not renewed by Symbol's customers. For example, near the end of the second fiscal quarter of 2002, the defendant JAMES HEUSCHNEIDER, together with others, caused Symbol to renew several customer service contracts without the customers' knowledge or consent. By renewing contracts that had previously been terminated by the customer or had

expired, HEUSCHNEIDER, together with others, caused Symbol to recognize and report more than \$600,000 in fictitious customer service revenue.

E. Obstruction of the Investigation of Fraud at Symbol

68. In or about April 2001, the SEC received an anonymous letter reporting fraudulent revenue recognition practices at Symbol with respect to two transactions from the fourth fiscal quarter of 2000, and alleging that "these two transactions are just the tip of the iceberg of how Symbol management continues to manipulate and improperly handle their business accounting." In response to this anonymous letter, in or about May 2001, the SEC commenced an investigation and requested that Symbol produce documents concerning the two transactions discussed in the letter as well as documents relating to other transactions for which Symbol recognized and reported revenue in the fourth fiscal quarter of 2000.

69. Upon receipt of the SEC's document request, Symbol retained a law firm ("Law Firm #1")

to represent the company in connection with the SEC's inquiry, to conduct an internal investigation of Symbol's revenue recognition practices, and to report its findings to the SEC. Law Firm #1, in turn, retained an accounting firm (the "Accounting Firm") to assist in conducting the internal investigation. Through Law Firm #1, Symbol represented to the SEC that it was committed to cooperating fully with the SEC. As part of its own investigative efforts, Symbol chose the defendant MICHAEL DEGENNARO, a certified public accountant and former audit partner from Symbol's outside audit firm, as the primary liaison between Law Firm #1 and Symbol for the purposes of Law Firm #1's investigation.

70. In or about the Summer of 2001, in response to a request from the Accounting Firm, the defendant MICHAEL DEGENNARO provided the Accounting Firm with a list of what purported to be the 10 largest invoices on which Symbol recognized and reported revenue in December 2000. However, as DEGENNARO well knew and intended, the list he

provided was inaccurate and designed to hide improper transactions from the investigators.

71. In or about March 2002, Law Firm #1 met with the SEC and discussed its preliminary conclusions from its internal investigation at Symbol. Law Firm #1 reported that the Accounting Firm had reviewed Symbol's 10 largest invoices from December 2000 and determined that revenue from all of them was properly recorded and recognized.

72. After the March 2002 meeting, the SEC informed Symbol that it was dissatisfied with the internal investigation that had been conducted. As a result, Symbol thereafter retained a second law firm ("Law Firm #2") to represent the company in connection with the SEC's investigation and to continue the internal investigation of Symbol's revenue recognition practices. Symbol and the SEC agreed that Law Firm #2 would report its findings to the SEC to assist the SEC in its investigation of Symbol.

73. To assist in its investigation, Law

Firm #2 retained a team of forensic accountants (the "Forensic Accountants"). As before, the defendant MICHAEL DEGENNARO was selected by Symbol to act as the primary liaison between Symbol and Law Firm #2.

74. Until he was fired by Symbol in or about September 2002, the defendant MICHAEL DEGENNARO secretly directed several Symbol employees to withhold information, documents and records from Law Firm #2 and the Forensic Accountants in an effort to thwart and interfere with the internal investigation. For example:

a. The defendant MICHAEL DEGENNARO instructed Symbol employees not to tell the Forensic Accountants about a significant field in Symbol's accounting software in which notes were recorded about certain end-of-quarter transactions between Symbol and "Friends of Frank." DEGENNARO knew that these notes would disclose fraudulent revenue recognition schemes at Symbol that otherwise may have remained hidden from the investigators.

b. In or about July 2002, the defendant

MICHAEL DEGENNARO instructed a Symbol employee to prepare an analysis of large end-of-quarter transactions. When the employee's analysis revealed numerous revenue recognition improprieties, DEGENNARO directed the employee not to provide the analysis to Law Firm #2 or the Forensic Accountants, but instead to hide the analysis in a desk drawer. Moreover, DEGENNARO instructed the employee to make sure the analysis was not stored on Symbol's computer network where it could be discovered by Law Firm #2 or the Forensic Accountants.

75. The defendant MICHAEL DEGENNARO also personally engaged in conduct intended to thwart and interfere with the internal investigation. At the request of Law Firm #2 and the Forensic Accountants, DEGENNARO, together with other Symbol executives and employees, prepared a reconciliation between Symbol's accounting software and manual entries made to Symbol's corporate accounting journals. In an effort to thwart and interfere with the internal investigation, DEGENNARO and others sanitized the

reconciliation spreadsheet to conceal from Law Firm #2 and the Forensic Accountants certain fraudulent revenue recognition practices at Symbol.

76. The defendant KENNETH JAEGGI also engaged in conduct designed to thwart and interfere with the internal investigation. After the commencement of the investigation, JAEGGI instructed Symbol employees to find and destroy all copies of Tango sheets in existence at Symbol. It was also JAEGGI's intent and effect that the Symbol employees who received JAEGGI's instructions, in turn, instruct others to search for and destroy copies of Tango sheets. JAEGGI also destroyed copies of Tango sheets that were in his own possession.

III. The Stock Option Fraud Scheme

77. The defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, devised and carried out a scheme to defraud Symbol and to evade the payment of federal income tax through the improper exercise of stock options granted by Symbol to GOLDNER, JAEGGI and other high-level Symbol

executives and directors.

A. Symbol's Stock Option Plans

78. Symbol granted stock options to its employees, executives and directors pursuant to a number of different stock option plans approved by Symbol's Board of Directors and/or the company's shareholders (collectively, the "Plans"). Under the Plans, the provisions governing the exercise of stock options were essentially identical. An exercise was deemed effective only after the exercising individual both (a) transmitted written notice to Symbol of his or her intent to exercise a specified number of options, and (b) tendered payment for the options. Delivery of written notice and payment constituted an irrevocable election to exercise the options selected, and the date on which Symbol received the later of either the notice or payment was the effective date of exercise under the Plans.

79. Under the Plans, a stock option would be assigned a cost equal to the closing price of Symbol's stock on the date the option was granted

(the "Option Cost"). An exercise would be completed at the closing price for Symbol's stock on the exercise date (the "Exercise Price"). A gain would then be calculated based on the difference between the Exercise Price and the Option Cost (the "Gain"). Federal income tax law treated the Gain as ordinary income paid by Symbol to the employee.

80. Under federal income tax law, the exercise of a stock option was a taxable event for which the exercising individual was obligated to pay tax on the Gain at the individual's ordinary income tax rate. Consequently, under federal income tax law, Symbol was required to obtain the tax due from the individual upon the option exercise and submit the tax obtained to the Internal Revenue Service (the "IRS"). Symbol reported the Gain and the tax obtained to the employee and to the IRS on the employee's W-2 form.

81. Federal income tax law also provided that, upon completion of an option exercise, Symbol was entitled to a corporate tax deduction equal to

the Gain obtained by the individual.

82. Executives and directors commonly exercised stock options under the Plans in one of two ways. In the first method, known as a "cash purchase," the individual tendered cash to pay for both the Option Cost and the tax due.

83. In the second method used to exercise stock options, known as a "stock swap," the exercising individual was permitted to tender shares of Symbol stock the individual already held to pay for both the Option Cost and the tax due. For purposes of stock swap transactions, the tendered shares were valued at the closing price of Symbol's stock on the exercise date.

84. Symbol filed its Plans with the SEC, and disclosed them to the investing public as part of its statutory reporting obligations.

85. Under the securities laws, each time certain individuals exercised Symbol stock options, the individual was required to file with the SEC a report (on Form 4) that, among other things, reported

the date on which the stock options were exercised, the number of shares acquired, and the Option Cost and Exercise Price.

86. The exercise of Symbol's stock options typically involved the use of the United States mails, commercial interstate carriers and interstate wires. For example, Symbol normally transmitted its directors' and executives' Form 4s from its Long Island headquarters to the SEC in Washington, D.C. by United Parcel Service overnight delivery.

87. During the 1990s, there were legal restrictions as well as informal rules at Symbol restricting the ability of Symbol's directors and executives to sell stock and exercise stock options. The defendant LEONARD GOLDNER was responsible for enforcing all limitations on option exercises and stock sales, including the applicable SEC regulations and Symbol's own restrictions. No executive, officer or director was allowed to exercise options or sell stock without having first informed GOLDNER of his or her intention to do so, and only after having

received GOLDNER's approval.

B. The Fraudulent "Look-Back" Scheme

88. In or about the early-1990s, the defendant LEONARD GOLDNER approved and implemented a fraudulent practice, in violation of the Plans' rules, by which a select group of executives, officers and directors, including GOLDNER and the defendant KENNETH JAEGGI, effectively chose the price at which they exercised stock options in a manner that allowed them to minimize the tax paid or maximize the profit made upon the exercise of their stock options. Participants in the scheme were given a "look-back" period of up to 30 days in which the date on which they exercised their options, and consequently the Exercise Price, was retroactively selected for their own benefit, regardless of the actual day that the individual satisfied the conditions prescribed by the applicable Plan. Under this scheme, if an individual waited until the end of a month to decide to exercise stock options, the look-back period could be as long as 30 days.

89. As part of the fraudulent look-back scheme, the defendant LEONARD GOLDNER permitted those individuals exercising stock options through a cash purchase to falsely designate as the exercise date the date with the second-lowest closing price that occurred during the look-back period. Consequently, because the Gain realized by the individual (the difference between the Exercise Price and the Option Cost) was less than it would have been if the individual had used the higher closing price from the actual date of exercise, as was required by the Plans, the individual substantially lessened the tax due for the exercise of the stock options.

90. Additionally, by allowing the individual fraudulently to lower the Gain reported on the stock option exercise, and therefore fraudulently lessen his tax obligation, the look-back scheme caused Symbol to receive a smaller tax deduction than it would have received had the stock options been exercised properly according to the terms of the Plan.

91. With respect to those exercising stock options through the stock swap method, the defendant LEONARD GOLDNER permitted participants in the look-back scheme to select the second-highest closing price that occurred during the look-back period, regardless of the closing price on the day the exercise actually took place. By fraudulently maximizing in this manner the value of the stock being tendered to pay the Option Cost and tax due, the individual would have to tender fewer shares of stock to Symbol to meet the combined costs of these items. This caused Symbol to receive in payment fewer shares of its stock than it would have had the exercise been carried out according to the terms of the applicable Plan.

92. In addition to allowing selected others to participate in the look-back scheme, the defendant LEONARD GOLDNER took advantage of the scheme himself. For example, in July 2002, GOLDNER exercised stock options through a cash purchase, improperly selecting the second-lowest price in the

look-back period, despite the fact that on the actual date of the exercise the closing price of Symbol's stock was substantially higher. GOLDNER consequently reported to the IRS a substantially lower Gain than he would have received if he had used the actual exercise date for this transaction, thus substantially underpaying his federal income tax for tax year 2002.

93. The defendant KENNETH JAEGGI also took advantage of the look-back scheme himself. For example, in June 2000, JAEGGI exercised stock options through a cash purchase, improperly selecting the second-lowest price in the look-back period, despite the fact that on the actual date of the exercise the closing price of Symbol's stock was substantially higher. JAEGGI consequently reported to the IRS a substantially lower Gain than he would have received if he had used the actual exercise date for this transaction, thus substantially underpaying his federal income tax for tax year 2000.

C. Attempts to Cover-up the Look-back Scheme

94. The look-back scheme was prohibited by the express terms of the Plans and was never reviewed or approved by Symbol's Board of Directors or its shareholders. Nor did Symbol ever disclose the look-back practice in its numerous filings made with the SEC during the relevant period.

95. Following the commencement of the SEC's investigation of Symbol in the Spring of 2001, the defendant LEONARD GOLDNER took steps to prevent and forestall discovery of the look-back scheme. Among the steps taken by GOLDNER to cover up and forestall discovery of the scheme were the following:

a. On or about March 4, 2002, GOLDNER left a voicemail message for the defendant KENNETH JAEGGI and another senior Symbol executive (the "Senior Executive"), in which GOLDNER encouraged JAEGGI and the Senior Executive to prevent Symbol's Board of Directors from expanding the scope of the internal investigation under way at the time, with the knowledge that an expanded investigation might uncover, among other things, the look-back scheme

controlled by GOLDNER; and

b. On or about April 17, 2003, a Symbol employee left a message for GOLDNER informing GOLDNER, among other things, that the employee had been contacted by Law Firm #2 concerning executive stock options. The following day, the Symbol employee spoke by phone with GOLDNER, at which time GOLDNER suggested to the Symbol employee that the employee not be truthful about the look-back scheme.

COUNT ONE

(Conspiracy to Commit Securities Fraud)

96. The allegations contained in paragraphs 1 through 95 are realleged and incorporated as if fully set forth in this paragraph.

97. In or about and between 1999 and December 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, MICHAEL DEGENNARO, FRANK BORGHESE, CHRISTOPHER DESANTIS and JAMES HEUSCHNEIDER, together with Robert Korkuc, Robert Asti, Robert Donlon, James Dean,

Gregory Mortenson and others, did knowingly and willfully, directly and indirectly, conspire:

a. to commit fraud in connection with the purchase and sales of securities issued by Symbol, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5;

b. to make and cause to be made false and misleading statements of material fact in applications, reports and documents required to be filed under the Securities Exchange Act of 1934 and the rules and regulations thereunder, in violation of Title 15, United States Code, Section 78ff;

c. to falsify Symbol's books, records, and accounts, the making and keeping of which was required by Title 15, United States Code, Section 78m(b)(2)(A) and Title 17, Code of Federal Regulations, Section 240.13b2-1, in violation of

Title 15, United States Code, Sections 78m(b)(5) and 78ff; and

- d. to circumvent Symbol's internal accounting

controls as required by Title 15, United States Code, Section 78m(b)(2)(B), in violation of Title 15, United States Code, Sections 78m(b)(5) and 78ff.

98. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, FRANK BORGHESE, MICHAEL DEGENNARO, CHRISTOPHER DESANTIS and JAMES HEUSCHNEIDER, together with others, committed and caused the commission of, among others, the following:

OVERT ACTS

1. Filings with the SEC

- a. On or about February 29, 2000, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE signed Symbol's Annual Report on Form 10-

K for the fiscal year that ended on December 31, 1999.

b. On or about April 27, 2000, the defendant KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on March 31, 2000.

c. On or about July 31, 2000, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on June 30, 2000.

d. On or about October 26, 2000, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on September 30, 2000.

e. On or about March 29, 2001, the defendant KENNETH JAEGGI and co-conspirator Robert Korkuc signed Symbol's Annual Report on Form 10-K for the fiscal year that ended on December 31, 2000.

f. On or about May 3, 2001, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal

quarter that ended on March 31, 2001.

g. On or about August 13, 2001, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on June 30, 2001.

h. On or about October 31, 2001, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on September 30, 2001.

i. On or about March 22, 2002, the defendant KENNETH JAEGGI and co-conspirator Robert Korkuc signed Symbol's Annual Report on Form 10-K for the fiscal year that ended on December 31, 2001.

j. On or about May 13, 2002, the defendant KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on March 31, 2002.

k. On or about August 13, 2002, the defendant KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended

on June 30, 2002.

1. On or about November 14, 2002, the defendant KENNETH JAEGGI signed Symbol's Quarterly Report on Form 10-Q for the fiscal quarter that ended on September 30, 2002 and, on the same date, further signed a certification stating, among other things: "The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function) . . . any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls."

2. Revenue Recognition

m. On or about March 21, 2000, the defendant FRANK BORGHESE signed a letter to Distributor #1 offering Return Rights on all products ordered by Distributor #1.

n. On or about April 25, 2000, co-

conspirator Robert Asti sent an e-mail from Symbol's offices in Holtsville, New York, to Distributor #1, which stated:

A running list of the dollar value of all new orders placed by [Distributor #1] for products that were not in the March invoicing to [Distributor #1] will be maintained by Symbol Boca. On a monthly basis, Symbol Boca and [Distributor #1] will coordinate a stock rotation from the original order for a dollar amount equal to the shipments during that month of product that was not in the original March invoicing. This process will continue until the entire initial order is depleted.

o. On or about April 27, 2000, the defendant BRIAN BURKE signed a check request for a \$1,934,276.20 check to VAR #6.

p. On or about April 27, 2000, the defendant KENNETH JAEGGI and co-conspirator Robert Korkuc co-signed a check to VAR #6 for \$1,934,276.20.

q. On or about April 27, 2000, the defendant BRIAN BURKE signed a check request for a \$1,969,700.10 check to VAR #5.

r. On or about April 27, 2000, the defendant KENNETH JAEGGI and co-conspirator Robert Korkuc co-signed a check to VAR #5 for \$1,969,700.10.

s. In or about the second fiscal quarter of 2000, defendant FRANK BORGHESE offered Return Rights and Contingent Payment Terms to VAR #1 to induce VAR #1 to place a \$2 million purchase order with Symbol.

t. On or about June 21, 2000, a Symbol employee sent a fax to VAR #7 in which the employee wrote, "I am willing to write you a 'side letter' for what bothers you in this letter (like the 'title statement'). We plan on cancelling [sic] the order before the 'real' [End-user #1] orders are put up in the system."

u. In or about the third quarter of 2000, the defendant FRANK BORGHESE offered Return Rights and Contingent Payment Terms to VAR #1 to induce VAR #1 to place a large purchase order with Symbol.

v. On or about September 28, 2000, co-conspirator Robert Asti received an e-mail in Symbol's offices in Holtsville, New York, from VAR #1 which stated, "as we discussed, 'stock rotation' as

used in your e-mail of the terms means complete stock return privilege."

w. In or about the first fiscal quarter of 2001, the defendant CHRISTOPHER DESANTIS sent an e-mail to VAR #1 agreeing that VAR #1 would have "stock rotation rights" for a "Q1 deal."

x. In or about the first quarter of 2001, the defendant FRANK BORGHESE placed a telephone call to Distributor #1 to solicit a large purchase order.

y. On or about March 23, 2001, the defendant FRANK BORGHESE was copied on an e-mail sent by a Symbol employee to Distributor #1 which requested an order needed by Symbol "to get to the Latin America ONLY numbers for Brazil."

z. On or about March 28, 2001 and March 29, 2001, the defendants FRANK BORGHESE and CHRISTOPHER DESANTIS sent and received several e-mails concerning a Symbol transaction with Distributor #1, in which Symbol granted Distributor

#1 extended payment terms and Return Rights.

aa. In or about the second fiscal
quarter of

2001, the defendants FRANK BORGHESE and CHRISTOPHER
DESANTIS directed co-conspirator Gregory Mortenson to
obtain ship-in-place letters for various orders that
were not shipped by the end of the first fiscal
quarter of 2001.

bb. In or about the second fiscal
quarter of
2001, co-conspirator Gregory Mortenson provided co-
conspirator Robert Donlon with a copy of a document
titled "The Americas Sales and Services Top Six
Customers on Q1 Download For The Quarter Ended March
31, 2001" along with a handwritten note on the
document stating "Per Chris and Frank, Please get
letters. Tks, Greg."

cc. On or about June 29, 2001, the
defendant FRANK BORGHESE received a letter faxed to
Symbol's headquarters from VAR #8.

dd. On or about June 26, 2001, the

defendant FRANK BORGHESE and co-conspirator Gregory Mortenson co-signed a check request to pay VAR #3 \$194,109.81.

ee. On or about August 8, 2001, the defendant FRANK BORGHESE received a letter faxed to Symbol's headquarters from VAR #3.

3. Tango Adjustments

ff. In or about the third fiscal quarter of 1999, the first fiscal quarter of 2000 and the third fiscal quarter of 2001, the defendants TOMO RAZMILOVIC and KENNETH JAEGGI caused Symbol to release money from Symbol's SERP reserve account.

gg. In or about the fourth fiscal quarter of 1999, the defendants KENNETH JAEGGI and BRIAN BURKE caused Symbol to reclassify \$2.5 million of expenses from cost of sales to operating expenses.

hh. In or about the first fiscal quarter of 2000, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE directed that Symbol's credit memo reserve account be adjusted in order to report revenues for that quarter totaling \$320

million. ii. In or about the first fiscal quarter of 2000, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE caused Symbol to defer \$3.5 million in FICA expenses to the fourth fiscal quarter of 2000.

jj. In or about the first fiscal quarter of 2000, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and BRIAN BURKE caused Symbol to reclassify \$2.3 million in expenses from cost of sales to operating expenses.

kk. In or about the first fiscal quarter of 2002, the defendant KENNETH JAEGGI instructed co-conspirator Robert Korkuc to make a Tango adjustment reducing Symbol's credit memo reserve account by \$2 million.

4. Manipulation of Non-Recurring Expenses and Cookie Jar Reserves

ll. In or about December 2000, the defendant MICHAEL DEGENNARO directed the creation of a \$20 million cookie jar reserve within the \$63.9 million non-recurring restructuring charge for redundant and discontinued inventory.

mm. On or about May 1, 2001, the defendant MICHAEL DEGENNARO sent an e-mail to a Symbol employee directing the employee to prepare a schedule for Symbol's outside auditors.

nn. In or about June 2001, the defendant MICHAEL DEGENNARO caused Symbol to secure a letter from a Symbol customer purporting to acknowledge receipt of \$14.9 million in inventory to be scrapped.

oo. In or about June 2001, the defendants MICHAEL DEGENNARO and KENNETH JAEGGI directed a Symbol employee to prepare an analysis justifying a \$110 million inventory charge for wireless and mobile computing products.

pp. In or about early 2001, the defendant BRIAN BURKE caused the creation of backdated phony severance letters.

qq. In or about early 2001, the defendant BRIAN BURKE presented backdated phony severance letters to Symbol's outside auditors.

rr. In or about early 2001, the

defendant MICHAEL DEGENNARO ordered that \$5 million of a \$20 million cookie jar reserve be released and subsequently directed that the accounting adjustment be concealed from Symbol's outside auditors.

ss. In or about the third quarter of 2001, the defendant MICHAEL DEGENNARO caused Symbol to recognize an \$11 million expense associated with the termination of Symbol employees.

tt. In or about December 2001, the defendant MICHAEL DEGENNARO directed co-conspirator James Dean to reverse \$5 million of an inventory reserve.

uu. In or about January 2002, the defendants TOMO RAZMILOVIC, KENNETH JAEGGI and MICHAEL DEGENNARO caused Symbol to release \$10 million from Account 9106 to increase reported earnings for the fourth fiscal quarter of 2001.

5. Customer Service

vv. On or about December 21, 2001, the defendant JAMES HEUSCHNEIDER caused the transfer of \$3 million from a deferred revenue account to a

current revenue account.

ww. In or about the first fiscal quarter of 2002, the defendant JAMES HEUSCHNEIDER caused the transfer of approximately \$2.98 million from a deferred revenue account to a current revenue account.

xx. On or about June 24, 2002, the defendant JAMES HEUSCHNEIDER sent an e-mail to a Symbol employee instructing the employee to bill a Symbol customer that had not submitted a purchase order.

yy. On or about June 28, 2002, the defendant JAMES HEUSCHNEIDER replied "Go ahead" to an e-mail he received from a Symbol employee that stated:

Jim, I have set up the 8 contracts from the cancel list that you asked me to. I do not have a signed contract or PO. Are you sure you want them to invoice? Yes I am just trying to cover my ass, so please do not give me a verbal response.

zz. In or about the second fiscal quarter of 2002, the defendant JAMES HEUSCHNEIDER

caused the transfer of approximately \$5.5 million from a deferred revenue account to a current revenue account.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT TWO
(Securities Fraud)

99. The allegations contained in paragraphs 1 through 95, 97 and 98 are realleged and incorporated as if fully set forth in this paragraph.

100. In or about and between 1999 and December 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, defendants TOMO RAZMILOVIC, KENNETH JAEGGI, BRIAN BURKE, FRANK BORGHESE, MICHAEL DEGENNARO, CHRISTOPHER DESANTIS and JAMES HEUSCHNEIDER, together with Robert Korkuc, Robert Asti and others, did knowingly and willfully, directly and indirectly, use and employ manipulative and deceptive devices and contrivances in violation

of Rule 10b-5 of the Rules and Regulations of the SEC (Title 17, Code of Federal Regulations, Section 240.10b-5), in that the defendants, together with others, did knowingly and willfully, directly and indirectly, (a) employ devices, schemes, and artifices to defraud; (b) make untrue statements of material fact and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engage in acts, practices, and courses of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of Symbol securities, and by use of the means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS THREE THROUGH FOURTEEN
(False SEC Filings)

101. The allegations contained in

paragraphs 1 through 95, 97 and 98 are realleged and incorporated as if fully set forth in this paragraph.

102. On or about the dates listed below, within the Eastern District of New York and elsewhere, the defendants listed below unlawfully, willfully, and knowingly made and caused to be made statements in reports and documents required to be filed with the SEC under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, which statements were false and misleading with respect to material facts, to wit, the defendants listed below submitted the filings listed below to the SEC:

COUNT	DEFENDANT	FILING	APPROXIMATE DATE OF FILING
THREE	RAZMILOVIC JAEGGI BURKE	Form 10-k for Symbol Technologies, Inc., for the Year Ending December 31, 1999	March 1, 2000
FOUR	JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the First Quarter of 2000	May 2, 2000

FIVE	RAZMILOVIC JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Second Quarter of 2000	August 2, 2000
SIX	RAZMILOVIC JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Third Quarter of 2000	October 31, 2000
SEVEN	JAEGGI	Form 10-k for Symbol Technologies, Inc., for the Year Ending December 31, 2000	March 30, 2001
EIGHT	RAZMILOVIC JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the First Quarter of 2001	May 11, 2001
NINE	RAZMILOVIC JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Second Quarter of 2001	August 14, 2001
TEN	RAZMILOVIC JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Third Quarter of 2001	November 2, 2001
ELEVEN	JAEGGI	Form 10-k for Symbol Technologies, Inc., for the Year Ending December 31, 2001	March 26, 2002
TWELVE	JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the First Quarter of 2002	May 13, 2002
THIRTEEN	JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Second Quarter of 2002	August 13, 2002

FOURTEEN	JAEGGI	Form 10-Q for Symbol Technologies, Inc., for the Third Quarter of 2002	November 14 2002
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(Title 15, United States Code, Sections 78m(a) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT FIFTEEN

(Conspiracy to Commit Mail and Wire Fraud - GOLDNER and JAEGGI)

103. The allegations contained in paragraphs 1 through 23 and 77 through 95 are realleged and incorporated as if fully set forth in this paragraph.

104. In or about and between the early-1990s and October 2003, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud Symbol, and to obtain money and property from Symbol, by means of materially false and fraudulent pretenses,

representations and promises, and for the purpose of executing such scheme and artifice, to (a) place and cause to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the United States Postal Service, and to deposit matters and things to be sent and delivered by private and commercial interstate carriers, in violation of Title 18, United States Code, Section 1341, and (b) cause writings, signs, signals, pictures and sounds to be transmitted by means of wire communication in interstate and foreign commerce, in violation of Title 18, United States Code, Section 1343.

105. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, committed and caused the commission of, among others, the following:

OVERT ACTS

a. On or about June 2, 2000, a

Symbol employee was contacted concerning the exercise of 101,250 stock options by the defendant KENNETH JAEGGI.

b. On or about June 9, 2000, a Symbol employee requested that a Symbol stock certificate be issued in the defendant KENNETH JAEGGI's name by the Bank of New York.

c. On or about June 9, 2000, the defendant KENNETH JAEGGI signed an SEC Form 4 that falsely reported that he had exercised 101,250 stock options on May 24, 2000.

d. On or about June 9, 2000, the defendant LEONARD GOLDNER caused the Form 4 referred to in the preceding sub-paragraph to be filed with the SEC.

e. On or about June 30, 2000, the defendant KENNETH JAEGGI caused payment to be made to Symbol by wire transfer in the amount of \$2,099,780.

f. On or about July 15, 2002, a Symbol employee was contacted concerning the exercise of 379,688 stock options by the Senior Executive.

g. On or about August 1, 2002, a Symbol employee requested that a Symbol stock certificate be issued in the Senior Executive's name by the Bank of New York.

h. On or about August 5, 2002, the Senior Executive caused payment to be made to Symbol in the amount of \$1,776,536.

i. On or about August 9, 2002, the Senior Executive signed an SEC Form 4 that falsely reported that the Senior Executive had exercised 379,688 stock options on July 11, 2002.

j. On or about August 9, 2002, the defendant LEONARD GOLDNER caused the Form 4 referred to in the preceding sub-paragraph to be filed with the SEC.

k. On or about July 17, 2002, the defendant LEONARD GOLDNER contacted a Symbol employee concerning the exercise of 75,000 stock options by GOLDNER.

l. On or about July 29, 2002, the defendant LEONARD GOLDNER caused payment to be made

to Symbol in the amount of \$351,710.

m. On or about August 1, 2002, a Symbol employee requested that a Symbol stock certificate be issued in the defendant LEONARD GOLDNER's name by the Bank of New York.

n. On or about August 9, 2002, the defendant LEONARD GOLDNER signed an SEC Form 4 that falsely reported that he had exercised 75,000 stock options on July 11, 2002.

o. On or about August 9, 2002, the defendant LEONARD GOLDNER caused the Form 4 referred to in the preceding sub-paragraph to be filed with the SEC.

p. On or about April 17, 2003, the defendant LEONARD GOLDNER spoke by telephone with a Symbol employee.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNTS SIXTEEN AND SEVENTEEN
(Mail Fraud - GOLDNER and JAEGGI)

106. The allegations contained in paragraphs 1 through 23 and 77 through 95 are hereby

realleged and incorporated as though fully set forth in this paragraph.

107. In or about and between the early-1990s and October 2003, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, did knowingly and intentionally devise a scheme and artifice to defraud Symbol, and to obtain money and property from Symbol, by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, did cause to be placed in a post office and authorized depository for mail, matters and things to be sent and delivered by the United States Postal Service, to wit: IRS Form W-2s, as indicated below:

COUNT	DEFENDANT	DOCUMENT	APPROXIMATE DATE OF MAILING

SIXTEEN	JAEGGI GOLDNER	IRS Form W-2 for the Year Ending December 31, 2000 mailed to JAEGGI's home address	January 31, 2001
SEVENTEEN	GOLDNER	IRS Form W-2 for the Year Ending December 31, 2002 mailed to GOLDNER's home address	January 31, 2003

(Title 18, United States Code, Sections
1341, 2 and 3551 et seq.)

COUNTS EIGHTEEN AND NINETEEN
(Mail Fraud - GOLDNER and JAEGGI)

108. The allegations contained in
paragraphs 1 through 23 and 77 through 95 are hereby
realleged and incorporated as though fully set forth
in this paragraph.

109. In or about and between the early-
1990s and October 2003, both dates being approximate
and inclusive, within the Eastern District of New
York and elsewhere, the defendants LEONARD GOLDNER
and KENNETH JAEGGI, together with others, did
knowingly and intentionally devise a scheme and
artifice to defraud Symbol, and to obtain money and
property from Symbol, by means of materially false

and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, to wit: SEC Form 4s, as indicated below:

COUNT	DEFENDANT	DOCUMENT	APPROXIMATE DATE PROVIDED TO CARRIER
EIGHTEEN	JAEGGI GOLDNER	SEC Form 4 dated June 9, 2000	June 9, 2000
NINETEEN	GOLDNER	SEC Form 4 dated August 9, 2002	August 9, 2002

(Title 18, United States Code, Sections 1341, 2 and 3551 et seq.)

COUNT TWENTY

(Wire Fraud - GOLDNER and JAEGGI)

110. The allegations contained in paragraphs 1 through 23 and 77 through 95 are hereby realleged and incorporated as though fully set forth in this paragraph.

111. In or about and between the early-

1990s and October 2003, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, did knowingly and intentionally devise a scheme and artifice to defraud Symbol, and to obtain money and property from Symbol, by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice did transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, to wit: a wire transfer of funds on or about June 30, 2000 from JAEGGI's account at Nationsbank of North Carolina located in North Carolina, to Symbol's account at JPMorgan Chase Bank located in New York, in the amount of \$2,099,780.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

COUNT TWENTY-ONE
(Conspiracy to Impair, Impede, Obstruct and Defeat

Internal Revenue Service - GOLDNER and JAEGGI)

112. The allegations contained in paragraphs 1 through 23 and 77 through 95 are hereby realleged and incorporated as though fully set forth in this paragraph.

113. In or about and between the early-1990s and October 2003, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others, did knowingly and intentionally conspire to defraud the United States by impeding, impairing, obstructing and defeating the lawful government functions of the IRS of the Treasury Department, an agency and department of the United States, in the ascertainment, computation, assessment and collection of revenue, to wit: income tax.

114. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants LEONARD GOLDNER and KENNETH JAEGGI, together with others,

committed and caused the commission of, among others, the following:

OVERT ACTS

a. On or about June 9, 2000, the defendant KENNETH JAEGGI caused a letter to be mailed to the IRS.

b. On or about June 30, 2000, the defendant KENNETH JAEGGI caused payment to be made to Symbol by wire transfer in the amount of \$2,099,780.

c. On or about January 31, 2001, Symbol mailed an IRS Form W-2 to the defendant KENNETH JAEGGI at his home address.

d. On or about April 15, 2001, the defendant KENNETH JAEGGI caused to be filed with the IRS in Holtsville, New York, a 2000 joint income tax return, which return contained a false statement concerning the amount of compensation JAEGGI received from Symbol.

e. On or about July 17, 2002, the defendant LEONARD GOLDNER caused a letter to be mailed to the IRS.

f. On or about July 29, 2002, the defendant LEONARD GOLDNER caused payment to be made to Symbol in the amount of \$351,710.

g. On or about January 31, 2003, Symbol mailed an IRS Form W-2 to the defendant LEONARD GOLDNER at his home address.

h. On or about April 17, 2003, the defendant LEONARD GOLDNER spoke by telephone with a Symbol employee.

i. On or about October 15, 2003, the defendant LEONARD GOLDNER caused to be filed with the IRS in Holtsville, New York, a 2002 joint income tax return, which return contained a false statement concerning the amount of compensation GOLDNER received from Symbol.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT TWENTY-TWO

(Income Tax Evasion - GOLDNER)

115. The allegations contained in paragraphs 1 through 23, 77 through 95, 113 and 114 are hereby realleged and incorporated as though fully

set forth in this paragraph.

116. On or about October 15, 2003, within the Eastern District of New York, the defendant LEONARD GOLDNER, a resident of Huntington, New York, did knowingly and willfully attempt to evade and defeat substantial income tax due and owing by him to the United States of America, by filing and causing to be filed with the Internal Revenue Service Center, Holtsville, New York, a false and fraudulent United States Joint Income Tax Return, Form 1040, for the calendar year 2002, wherein he stated that he earned \$1,314,740 in compensation from Symbol, and that he had a resulting joint tax liability of \$409,491, whereas, as he then and there well knew and believed, his compensation for said calendar year was more than \$1,464,000, upon which said joint taxable income there was owing to the United States of America an income tax of more than \$468,000.00.

(Title 26, United States Code, Section 7201; Title 18, United States Code, Sections 3551 et seq.)

COUNT TWENTY-THREE
(Income Tax Evasion - JAEGGI)

117. The allegations contained in paragraphs 1 through 23, 77 through 95, 113 and 114 are hereby realleged and incorporated as though fully set forth herein.

118. On or about April 15, 2001, within the Eastern District of New York, the defendant KENNETH JAEGGI, a resident of East Setauket, New York, did knowingly and willfully attempt to evade and defeat substantial income tax due and owing by him to the United States of America, by filing and causing to be filed with the Internal Revenue Service Center, Holtsville, New York, a false and fraudulent United States Joint Income Tax Return, IRS Form 1040, for the calendar year 2000, wherein he stated that he earned \$12,566,158 in compensation from Symbol, and that he had a resulting joint tax liability of \$4,706,507, whereas, as he then and there well knew and believed, his employee compensation for said calendar year was more than \$13,667,000, upon which said joint taxable income there was owing to the

United States of America an income tax of more than \$5,155,000.

(Title 26, United States Code, Section 7201; Title 18, United States Code, Sections 3551 et seq.)

COUNT TWENTY-FOUR
(False Filing - GOLDNER)

119. The allegations contained in paragraphs 1 through 23, 77 through 95, 113 and 114 are hereby realleged and incorporated as though fully set forth in this paragraph.

120. On or about October 15, 2003, within the Eastern District of New York, the defendant LEONARD GOLDNER, a resident of Huntington, New York, did knowingly and willfully make and subscribe a United States Individual Income Tax Return, IRS Form 1040, for the calendar year 2002, which was verified by a written declaration that it was made under the penalties of perjury and filed with the Director, Internal Revenue Service Center, at Holtsville, New York, and which GOLDNER did not believe to be true and correct as to every material matter, in that he

stated that he earned \$1,314,740 in compensation from Symbol, whereas, as he then and there well knew and believed, his compensation for said calendar year was more than \$1,464,000.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 3551 et seq.)

COUNT TWENTY-FIVE
(False Filing - JAEGGI)

121. The allegations contained in paragraphs 1 through 23, 77 through 95, 113 and 114 are hereby realleged and incorporated as though fully set forth in this paragraph.

122. On or about April 15, 2001, within the Eastern District of New York, the defendant KENNETH JAEGGI, a resident of East Setauket, New York, did knowingly and willfully make and subscribe a United States Individual Income Tax Return, IRS Form 1040, for the calendar year 2000, which was verified by a written declaration that it was made under the penalties of perjury and filed with the Director, Internal Revenue Service Center, at Holtsville, New

York, and which JAEGGI did not believe to be true and correct as to every material matter, in that he stated that he earned \$12,566,158 in compensation from Symbol, whereas, as he then and there well knew and believed, his employee compensation for said calendar year was more than \$13,667,000.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION AS TO COUNTS ONE AND TWO

123. The United States hereby gives notice to the defendants charged in Counts One and Two that, upon their conviction of such offenses, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the

following:

MONEY JUDGMENT

A sum of money equal to approximately \$63,000,000 in United States currency, for which the defendants are jointly and severally liable.

SPECIFIC PROPERTY

a. All funds on deposit in Banc of America account number 207-00426 held in the name of KENNETH V. JAEggi and Patti S. Jaeggi up to and including the sum of \$11,749.36 and all proceeds traceable thereto;

b. 32,400 shares, stock certificates, warrants and/or options of Symbol Technologies, Inc. held in the name of KENNETH V. JAEggi and Patti S. Jaeggi in Banc of America account number 207-00426 and all proceeds traceable thereto;

c. All funds on deposit in Banc of America account number P62-032115 held in the name of KENNETH V. JAEggi and Patti S. Jaeggi up to and including the sum of \$20,437.95 and all proceeds

traceable thereto; and

d. All shares, stocks certificates, warrants and/or options held in the name of KENNETH V. JAEGGI and Patti S. Jaeggi in Banc of America account number P62-032115 as follows: 2,500 shares of Averen Corp.; 2,000 shares of Ace Ltd. Red Preferred Shares Ser C; 10,000 shares of AT & T Wireless Services Inc.; 5,000 shares of Bank of New York Inc.; 35 shares of Blackrock New York Municipal Income II Auction Market Preferred Shares SER W7; six shares of Blackrock New York Municipal Income II Auction Market Preferred Stock SER F7; 2,500 shares of Bristol Myers Squibb; 5,000 shares of Conagra Foods Inc.; 5,000 shares of Deluxe Corp.; 2,500 shares of Duke Energy Corp.; 5,000 shares of Ford Motor Co. Del Com; 5,000 shares of Fresh Del Monte Produce Inc.; 2,500 shares of G A T X Corp.; 3,000 shares of General Motors Acceptance Corp.; 2,500 shares of JP Morgan Chase & Co.; 5,000 shares Johnson Controls Inc.; 5,000 shares of Lubrizol Corp.; 10,000 shares of Merck & Co. Inc.; one share of Municipal Holdings NY INSD FD INC

Auction Rate Preferred; five shares of Municipal Holdings NY INSD FD INC Auction Rate Preferred Stock SER E; one share of Municipal Holdings INSD FD 3.6% Auction Rate; 16 shares of Municipal Yield NY INSD FD INC AUCTION Market Preferred Stock SER B; 5,000 shares of Newell Rubbermaid Inc.; seven shares of Nuveen NY INVT QUAL Municipal Fund Inc. Auction Rate Preferred SER T; five shares of Nuveen NY Performance Plus Municipal Fund Inc. Auction Rate Preferred SER M; 24 shares of Nuveen NY Select Quality Municipal Fund Municipal Auction Rate SER W; 2,500 shares of Progress Energy Inc.; 2000 shares of Renaissance Holdings Ltd. Preferred Shares B 7.30%; 5,000 shares of Sara Lee Corp.; 2000 shares of Saturns Sprint Cap Corp.; 10,000 shares of Visteon Corp. Com; 10,000 shares of A T & T Corp. New; 5,000 shares of Snap On Inc.; 10,000 shares of Tupperware Corp.; 500,000 shares of Metropolitan Transit Authority New York Rev Ref Rev 00.0005%; and all proceeds traceable thereto.

124. If any of the above-described forfeitable property, as a result of any act or

omission of the defendant(s):

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation, including but not limited to the following: (a) all right, title and interest in the real property and premises located at 746 Soundview Road, Mill Neck, New York 11771; (b) all right, title and interest in

the real property and premises located at 23 Woodbrook Circle, Holtsville, New York 11742; (c) all right, title and interest in the real property and premises located at 6 Chereb Court, East Setauket, New York 11733; (d) all right, title and interest in the real property and premises located at 80 Mary's Lane, Southampton, New York 11968; (e) all right, title and interest in the real property and premises located at 75 Washington Drive, Montauk, New York; (f) all right, title and interest in the real property and premises located at 112 Norton Drive, East Northport, New York 11731; (g) all right, title and interest in the real property and premises located at 12955 SW 16th Court, Building M, Unit 107, Pembroke Pines, Florida; (h) all right, title and interest in the real property and premises located at 173 Lakewood Drive, Spring Valley, Nevada; and (i) all right, title and interest in the real property and premises located at 2823 Blackberry Court, Fullerton, California.

(Title 28, United States Code, Section

2461(c); Title 18, United States Code, Section
981(a)(1)(C); Title 21, United States Code, Section
853(p))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS THREE THROUGH FOURTEEN

125. The United States hereby gives notice to the defendants charged in Counts Three through Fourteen that, upon their conviction of such offenses, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

MONEY JUDGMENT

A sum of money equal to approximately \$61,000,000 in United States currency, for which the defendants are jointly and severally liable.

SPECIFIC PROPERTY

a. All funds on deposit in Banc of America account number 207-00426 held in the name of KENNETH V. JAEGLI and Patti S. Jaeggi up to and including the sum of \$11,749.36 and all proceeds traceable thereto;

b. 32,400 shares, stock certificates, warrants and/or options of Symbol Technologies, Inc. held in the name of KENNETH V. JAEGLI and Patti S. Jaeggi in Banc of America account number 207-00426 and all proceeds traceable thereto;

c. All funds on deposit in Banc of America account number P62-032115 held in the name of KENNETH V. JAEGLI and Patti S. Jaeggi up to and including the sum of \$20,437.95 and all proceeds traceable thereto; and

d. All shares, stocks certificates, warrants and/or options held in the name of KENNETH V. JAEGLI and Patti S. Jaeggi in Banc of America account number P62-032115 as follows: 2,500 shares of Averan Corp.; 2,000 shares of Ace Ltd. Red Preferred Shares Ser C; 10,000 shares of AT & T Wireless

Services Inc.; 5,000 shares of Bank of New York Inc.; 35 shares of Blackrock New York Municipal Income II Auction Market Preferred Shares SER W7; six shares of Blackrock New York Municipal Income II Auction Market Preferred Stock SER F7; 2,500 shares of Bristol Myers Squibb; 5,000 shares of Conagra Foods Inc.; 5,000 shares of Deluxe Corp.; 2,500 shares of Duke Energy Corp.; 5,000 shares of Ford Motor Co. Del Com; 5,000 shares of Fresh Del Monte Produce Inc.; 2,500 shares of G A T X Corp.; 3,000 shares of General Motors Acceptance Corp.; 2,500 shares of JP Morgan Chase & Co.; 5,000 shares Johnson Controls Inc.; 5,000 shares of Lubrizol Corp.; 10,000 shares of Merck & Co. Inc.; one share of Municipal Holdings NY INSD FD INC Auction Rate Preferred; five shares of Municipal Holdings NY INSD FD INC Auction Rate Preferred Stock SER E; one share of Municipal Holdings INSD FD 3.6% Auction Rate; 16 shares of Municipal Yield NY INSD FD INC AUCTION Market Preferred Stock SER B; 5,000 shares of Newell Rubbermaid Inc.; seven shares of Nuveen NY INVT QUAL Municipal Fund Inc. Auction Rate

Preferred SER T; five shares of Nuveen NY Performance Plus Municipal Fund Inc. Auction Rate Preferred SER M; 24 shares of Nuveen NY Select Quality Municipal Fund Municipal Auction Rate SER W; 2,500 shares of Progress Energy Inc.; 2000 shares of Renaissance Holdings Ltd. Preferred Shares B 7.30%; 5,000 shares of Sara Lee Corp.; 2000 shares of Saturns Sprint Cap Corp.; 10,000 shares of Visteon Corp. Com; 10,000 shares of A T & T Corp. New; 5,000 shares of Snap On Inc.; 10,000 shares of Tupperware Corp.; 500,000 shares of Metropolitan Transit Authority New York Rev Ref Rev 00.0005%; and all proceeds traceable thereto.

126. If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation, including but not limited to the following: (a) all right, title and interest in the real property and premises located at 6 Chereb Court, East Setauket, New York 11733; (b) all right, title and interest in the real property and premises located at 80 Mary's Lane, Southampton, New York 11968; (c) all right, title and interest in the real property and premises located at 75 Washington Drive, Montauk, New York; and (d) all right, title and interest in the real property and premises located at 112 Norton Drive, East Northport, New York 11731.

(Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS FIFTEEN THROUGH TWENTY

127. The United States hereby gives notice to the defendants charged in Counts Fifteen through Twenty that, upon their conviction of such offenses, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

MONEY JUDGMENT

A sum of money equal to approximately \$26,400,000 in United States currency, for which the defendants are jointly and severally liable.

SPECIFIC PROPERTY

a. All funds on deposit in Banc of America account number 207-00426 held in the name of KENNETH V. JAEggi and Patti S. Jaeggi up to and including the sum of \$11,749.36 and all proceeds traceable thereto;

b. 32,400 shares, stock certificates, warrants and/or options of Symbol Technologies, Inc. held in the name of KENNETH V. JAEggi and Patti S. Jaeggi in Banc of America account number 207-00426 and all proceeds traceable thereto;

c. All funds on deposit in Banc of America account number P62-032115 held in the name of KENNETH V. JAEggi and Patti S. Jaeggi up to and including the sum of \$20,437.95, and all proceeds traceable thereto;

d. All shares, stocks certificates, warrants and/or options held in the name of KENNETH V. JAEggi and Patti S. Jaeggi in Banc of America account number P62-032115 as follows: 2,500 shares of Averen Corp.; 2,000 shares of Ace Ltd. Red Preferred

Shares Ser C; 10,000 shares of AT & T Wireless Services Inc.; 5,000 shares of Bank of New York Inc.; 35 shares of Blackrock New York Municipal Income II Auction Market Preferred Shares SER W7; six shares of Blackrock New York Municipal Income II Auction Market Preferred Stock SER F7; 2,500 shares of Bristol Myers Squibb; 5,000 shares of Conagra Foods Inc.; 5,000 shares of Deluxe Corp.; 2,500 shares of Duke Energy Corp.; 5,000 shares of Ford Motor Co. Del Com; 5,000 shares of Fresh Del Monte Produce Inc.; 2,500 shares of G A T X Corp.; 3,000 shares of General Motors Acceptance Corp.; 2,500 shares of JP Morgan Chase & Co.; 5,000 shares Johnson Controls Inc.; 5,000 shares of Lubrizol Corp.; 10,000 shares of Merck & Co. Inc.; one share of Municipal Holdings NY INSD FD INC Auction Rate Preferred; five shares of Municipal Holdings NY INSD FD INC Auction Rate Preferred Stock SER E; one share of Municipal Holdings INSD FD 3.6% Auction Rate; 16 shares of Municipal Yield NY INSD FD INC AUCTION Market Preferred Stock SER B; 5,000 shares of Newell Rubbermaid Inc.; seven shares of

Nuveen NY INVT QUAL Municipal Fund Inc. Auction Rate Preferred SER T; five shares of Nuveen NY Performance Plus Municipal Fund Inc. Auction Rate Preferred SER M; 24 shares of Nuveen NY Select Quality Municipal Fund Municipal Auction Rate SER W; 2,500 share of Progress Energy Inc.; 2000 shares of Renaissance Holdings Ltd. Preferred Shares B 7.30%; 5,000 shares of Sara Lee Corp.; 2000 shares of Saturns Sprint Cap Corp.; 10,000 shares of Visteon Corp. Com; 10,000 shares of A T & T Corp. New; 5,000 shares of Snap On Inc.; 10,000 shares of Tupperware Corp.; 500,000 shares of Metropolitan Transit Authority New York Rev Ref Rev 00.0005%; and all proceeds traceable thereto;

e. 90,594 shares, stock certificates, warrants and/or options of Symbol Technologies, Inc. held in the name of LEONARD GOLDNER and Jacqueline Goldner in Bank of America Collateral account number 207-00064 and all proceeds traceable thereto; and

f. 62,986 shares, stock certificates, warrants and/or options of Symbol Technologies, Inc. held in the name of LEONARD GOLDNER in Bank of New

York account number 313-26687 and all proceeds traceable thereto.

128. If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation,

including but not limited to the following: (a) all right, title and interest in the real property and premises located at 6 Chereb Court, East Setauket, New York 11733; (b) all right, title and interest in the real property and premises located at 48 Taylor Road, Huntington Bay, New York 11743; (c) all right, title and interest in 1,793 shares of stock in Theso Corp. allocated to Unit 6A in the building known as 300 East 71st Street, New York, New York, all right, title and interest to that certain proprietary lease(s) appurtenant thereto and any substitutes, replacements and additional shares and any amendments to and extensions or replacements of the proprietary lease(s), and all fixtures and personal property appurtenant thereto; and (d) all right, title and interest in 1401 shares of stock in the Halstead Property Co. L.L.C. allocated to Unit 11H in the building known as 165 West 66th Street, New York, New York, all right, title and interest to that certain proprietary lease(s) appurtenant thereto and any substitutes, replacements and additional shares and

any

amendments to and extensions or replacements of the
proprietary
lease(s), and all fixtures and personal property
appurtenant thereto.

(Title 28, United States Code, Section
2461(c); Title 18, United States Code, Section
981(a)(1)(C); Title 21, United States Code, Section
853(p))

A TRUE BILL

FOREPERSON

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK