

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

: Criminal No.

12 CRIM 551

v.

: Filed:

: Violations: 18 U.S.C. § 371

ALEXANDER WRIGHT,

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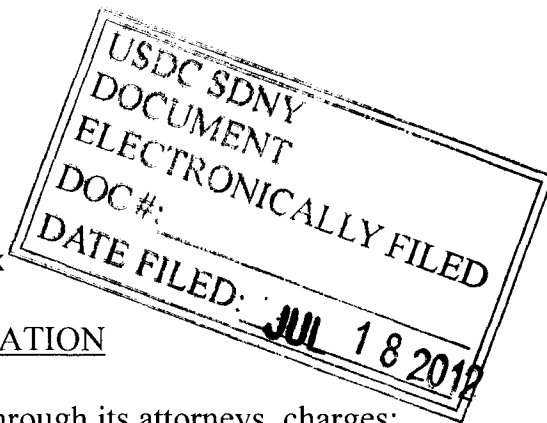
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Defendant.

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INFORMATION



The United States of America, acting through its attorneys, charges:

COUNT ONE -- CONSPIRACY
(18 U.S.C. § 371)

1. ALEXANDER WRIGHT is hereby made a defendant on the charge stated below.

THE RELEVANT PARTIES AND ENTITIES

At all times relevant to this Information:

2. ALEXANDER WRIGHT, the defendant, was employed by a financial services company, located in New York, New York, that was registered as a broker-dealer and investment adviser with the United States Securities and Exchange Commission ("SEC"). This financial services company was a wholly owned subsidiary of Financial Institution C.

3. Defendant WRIGHT worked for the financial services company from approximately August 1995 to until 2008. At the time of the offense, WRIGHT was a vice president in the municipal derivatives marketing group.

4. Financial Institution C was a financial institution that was registered with the Federal Reserve as a financial holding company headquartered in New York, New York and was a member of the Federal Reserve System within the meaning of Title 18, United States Code, Section 20.

5. Financial Institution C acted as a provider of investment agreements and other municipal finance contract for issuers (as described in paragraphs 12 through 16 of this Information) and participated in the competitive bidding process to provide those agreements and contracts.

6. Financial Institution A was a corporation existing under the laws of Switzerland with its principal place of business in Zurich, Switzerland. Financial Institution A maintains several wholly-owned subsidiaries in the United States, including a financial services company (hereinafter "FSC"). Financial Institution A and FSC's principal places of business in the United States are in New York, New York.

7. Directly or through its subsidiaries, including FSC, Financial Institution A marketed financial products and services to various municipalities throughout the United States, including underwriting and investment services to municipal issuers, acting as a provider of investment agreements for the proceeds of municipal bonds, and as a provider of other municipal finance contracts to municipal issuers throughout the United States. In addition, Financial Institution A and FSC acted as a broker for investment agreements

and other municipal finance contracts, including swaps and other interest rate derivative products (as described in paragraphs 16 through 18 of this Information).

8. Gary Heinz, a co-conspirator not named as a defendant herein, was a vice president and marketer on the municipal bond reinvestment and derivatives desk (“MRD”) at FSC from February 2001 to April 2004.

9. Heinz, Financial Institution A, and FSC acted in their capacity as a broker for investment agreements and other municipal finance contracts (as described in paragraphs 16 through 18 of this Count).

10. Whenever in this Count reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business affairs.

11. Various other persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof, including Financial Institution A, FSC, and Financial Institution C.

BACKGROUND

12. Municipal bonds are issued by government entities, such as states, counties, and cities, or quasi-governmental entities, such as public authorities and school, utility or water districts, to raise money for operating funds or for specific projects, such as the construction of public facilities, and to refinance outstanding municipal debt. In some instances, the entity issuing the bond turns the money over to a not-for-profit entity, such

as a school or hospital, or an entity that will spend the money for a specific public purpose, such as the construction of low-cost housing or waste treatment facilities. Both the entities that issue municipal bonds and the entities that receive and spend the money are, unless otherwise stated, collectively referred to herein as “issuers,” “municipal issuers,” or “municipalities.”

13. The money an issuer raises from a municipal bond offering (“bond proceeds”) is typically spent over a period of time, rather than immediately in one lump sum. The issuer frequently invests some or all of bond proceeds in an investment product (sometimes referred to as an “investment agreement”), which is designed for its specific needs. Investment agreements vary in size from a few hundred thousand to several hundred million dollars and in duration from as short as one month to as long as forty years.

14. Issuers usually select providers of investment agreements through bona fide competitive bidding procedures that are designed to comply with federal tax law and United States Department of the Treasury regulations relating to the tax-exempt status of municipal bonds.

15. In addition to investment agreements, issuers frequently enter into other municipal finance contracts such as interest rate swaps or other interest rate derivatives, which are contracts between a municipal issuer and a financial institution that are designed to manage or transfer some or all of the interest rate risk associated with a municipal bond issue.

16. Issuers often hire third parties (“brokers”) to act as their agents in conducting a bona fide competitive bidding process and to ensure compliance with the relevant Treasury regulations. In addition, many brokers that conduct bona fide competitive bidding for investment agreements subject to the Treasury regulations are also hired by municipalities and other quasi-government entities to conduct bona fide competitive bidding in connection with the award of other municipal finance contracts such as swaps, even though those contracts are not subject to the Treasury regulations. The broker’s fee for conducting a bona fide competitive bidding process is generally paid by the winning provider, which takes account of the cost of such broker’s fee when calculating its bid and generally discloses the fee to the issuer.

17. Brokers offer a variety of services, including offering suggestions about the availability and suitability of investment products, drafting bid specifications, and identifying the most competitive, qualified providers to be solicited as bidders. In some cases, the broker decides which providers will be solicited to bid without consulting with the issuer or any of the other professional representatives advising the issuer.

18. Brokers are usually responsible for distributing the bid packages (specifications and bid forms) to providers selected to receive them, usually via e-mail; keeping in touch with the potential bidders to answer questions about the bid specifications; and conducting the bidding process, which typically involves receiving the providers’ bids by telephone at a time identified in the bid specifications, followed by a confirming copy of the bid via facsimile. After reviewing the bids to ensure conformity with the specifications, brokers then inform the issuer of the outcome of the bid,

including the identity of the winning, qualified bidder and, if appropriate, any conditions that deviate from the specifications.

19. Depending on the structure of the bid, providers may be asked to quote only the interest rate to be paid on funds on deposit for the duration of the agreement or they may be asked to submit a bid in the form of a dollar amount or date (sometimes referred to as the “price” or “price level” of a bid).

20. In June of 2002, Financial Institution A and FSC acted as the lead underwriter for a \$31 million municipal bond offering for a New Jersey state health care facilities agency. The bonds offered were to have an adjustable or a floating interest rate, meaning that the interest paid by the issuer could adjust during the duration of the bonds.

21. Financial Institution A and FSC also agreed to act as the broker for a municipal finance contract called an interest rate cap, related to the \$31 million bond offering. Gary Heinz acted as the broker for the interest rate cap transaction.

SCHEME TO DEFRAUD

22. On or about June 19, 2002, ALEXANDER WRIGHT, the defendant, and co-conspirators including, Heinz, Financial Institution A, FSC, Financial Institution C, and others known and unknown, caused the municipal issuer to enter into a municipal finance contract, known as an interest rate cap, with Financial Institution C at an artificially determined or increased price level through the control and manipulation of the bidding for the interest rate cap contract.

23. Defendant WRIGHT and co-conspirator Heinz, and others known and unknown, increased the profitability of the interest rate cap contract awarded to Financial

Institution C, whereby Heinz provided defendant WRIGHT non-public information about the price levels of bids submitted by other providers, and by arranging for defendant WRIGHT to alter his earlier bid and submit his bid last.

24. Defendant WRIGHT used the non-public information provided by Heinz to increase Financial Institution C's final bid, which was \$14,600 more than it would have been if Heinz had not provided defendant WRIGHT non-public information.

25. As a result of the scheme to defraud, Financial Institution C was awarded the interest rate cap contract at a level that deprived the municipal issuer of money it would have otherwise been entitled; *i.e.*, the \$14,600 overcharge by Financial Institution C for the interest rate cap and a \$15,000 broker fee that Financial Institution C paid to Financial Institution A and FSC for what the municipal issuer believed to be a bona fide competitive bidding process.

STATUTORY ALLEGATION

26. On or about June 12, 2002 until on or about June 20, 2002, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, ALEXANDER WRIGHT, the defendant, and co-conspirators Heinz, Financial Institution A, FSC, Financial Institution C, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, to violate Title 18, United States Code, Section 1343, all in violation of Title 18, United States Code, Section 371.

27. It was a part and an object of the conspiracy that ALEXANDER WRIGHT, the defendant, and co-conspirators Heinz, Financial Institution A, FSC, Financial

Institution C, and others known and unknown, unlawfully, willfully and knowingly, would and did devise and intend to devise a scheme and artifice to defraud a municipal issuer and to obtain money and property from the municipal issuer by means of false and fraudulent pretenses, representations, and promises, namely, a scheme to deprive the municipal issuer of money and property by manipulating in favor of Financial Institution C the bidding process for a municipal finance contract that was to be awarded to the provider submitting the lowest bid, and further to deprive the municipal issuer of the property right to control its assets by causing it to make economic decisions based on false and misleading information, and for the purpose of executing such scheme and artifice, and attempting to do so, defendant WRIGHT and others known and unknown, would and did and cause to be transmitted by means of wire, radio or television communication in interstate or foreign commerce writings, signs, signals, pictures or sounds, in violation of Title 18, United States Code, Section 1343.

MEANS AND METHODS OF THE CONSPIRACY

28. For the purpose of forming and carrying out the charged conspiracy, WRIGHT and his co-conspirators did those things that they conspired to do, including, among other things:

(a) increasing or attempting to increase the profitability of a municipal finance contract awarded to Financial Institution C by a municipal issuer that used FSC as its broker, through the control and manipulation of the bidding for the contract;

(b) obtaining from FSC information about the prices, price levels, rates, conditions or other information related to competing providers' bids;

(c) determining Financial Institution C's bid after obtaining information from FSC about the prices, price levels, rates, conditions, or other information related to competing providers' bids;

(d) misrepresenting to the municipal issuer that the bidding process was bona fide or was otherwise competitive;

(e) causing the municipal issuer to award the contract to Financial Institution C, which contract the municipal issuer would not have awarded to Financial Institution C if it had true and accurate information regarding the bidding process;

(f) enabling Financial Institution C to perform the contract at an artificially determined price that deprived the municipal issuer of money and property; and

(g) using facilities of interstate commerce, including the use of interstate telephone calls, in furtherance of the object of the conspiracy.

OVERT ACTS

29. In furtherance of the conspiracy and to effect the illegal object thereof, ALEXANDER WRIGHT, the defendant, and his co-conspirators Heinz, Financial Institution A, FSC, Financial Institution C, and others known and unknown, committed or caused to be committed the following overt acts, among others, in the Southern District of New York and elsewhere:

(a) On or about June 19, 2002, at approximately 10:10 a.m., Heinz called WRIGHT and asked him if he wanted to win the interest rate cap transaction for a healthcare financing agency for which Heinz was acting as broker. WRIGHT asked Heinz if would provide him guidance before the bids were to be submitted. Heinz agreed and then explained that WRIGHT should submit his best bid and thereafter Heinz would call him after all the bids had been submitted and ask if he was “done at” whatever price Heinz told WRIGHT, indicating that Heinz would adjust WRIGHT’s bid so that Financial Institution C would win the contract at a more favorable price.

(b) On or about June 19, 2002, at approximately 11:00 a.m., the time when the bids were due, WRIGHT called Heinz and submitted a bid of \$124,000 for the interest rate cap contract.

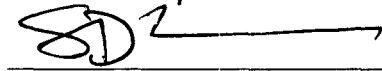
(c) On or about June 19, 2002, at approximately 11:08 a.m., Heinz called WRIGHT and informed him that he had the best bid and then asked if the bid was still at \$138,600, to which defendant WRIGHT responded “yes, exactly.”

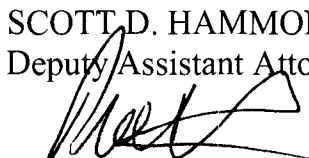
(d) On or about June 19, 2002, at approximately 11:30, Heinz and WRIGHT, via an interstate conference call between New York, New York, and New Jersey, informed the issuer and the issuer's financial adviser that Financial Institution C had submitted the lowest bid, \$138,600, and Financial Institution C was thereafter awarded the interest rate cap contract.

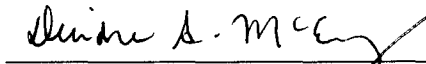
(e) On or about June 20, 2002, via interstate wire transfer from New Jersey to New York, New York, the issuer paid Financial Institution C approximately \$138,600.

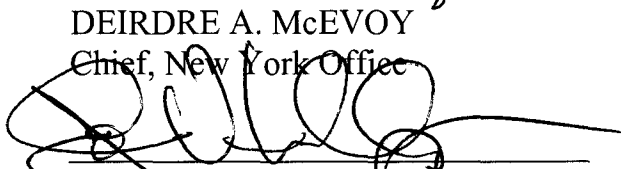
IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

Dated: July 17, 2012


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