

ORIGINAL

JUDGE CARTER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Case No. _____

UNITED STATES OF AMERICA,

v.

TOM ALEXANDER WILLIAM HAYES,
and
ROGER DARIN,

Defendants.

VIOLATIONS: 18 U.S.C. Sections 1349,
(Conspiracy), 1343 (Wire Fraud) & 2
(Aiding and Abetting)

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INDICTMENT

The grand jury charges that, at all times relevant to this Indictment:

**COUNT ONE
(Conspiracy, 18 U.S.C. § 1349)**

General Allegations

1. The London Interbank Offered Rate (“LIBOR”) was a benchmark interest rate overseen by the British Bankers’ Association (“BBA”), a trade association based in London, United Kingdom representing approximately 200 banks from more than 60 countries.
2. LIBOR was calculated every London business day by averaging the interest rates at which designated banks (“Contributor Panel” banks) estimated that they could borrow unsecured funds of a “reasonable market size” from other banks across ten currencies, including the Japanese Yen (“Yen”). Contributor Panel banks for each currency submitted their estimated borrowing rates for fifteen different borrowing periods (“maturities” or “tenors”), ranging in length from overnight to one year, including maturities of one month, three months, and six months (commonly referred to on paper as “1m,” “3m,” and “6m”). Thomson Reuters, acting as an agent for the BBA, received electronically the Contributor Panel banks’ estimated interest rate

submissions at or before approximately 11:10 a.m. in London. Among other currencies, Thomson Reuters received estimated interest rate submissions for the Yen LIBOR from sixteen designated Contributor Panel banks, specifically from bank employees referred to as “submitters” or “setters.” Upon receipt of the sixteen Contributor Panel banks’ Yen LIBOR submissions, Thomson Reuters: (a) ranked the submissions from highest to lowest; (b) excluded the four highest and four lowest submissions; and (c) averaged the remaining middle eight submissions to determine the official Yen LIBOR setting (also referred to as the “fix”) used to settle trades and as a reference rate for various financial products. This process was repeated for each different maturity or tenor. Contributor Panel banks’ Yen LIBOR submissions were between two and five decimal places, and the published Yen LIBOR fix was rounded, if necessary, to five decimal places. In the context of measuring interest rates, one “basis point” (or “bp”) was one-hundredth of one percent (0.01 percent).

3. By approximately 12:00 p.m. in the United Kingdom, Thomson Reuters published the averaged rates – or LIBORs – to, among others, Bloomberg LP network equipment which thereafter transmitted the LIBORs to servers located in New York, New York and elsewhere. Thomson Reuters as a general matter, pursuant to service agreements with various clients, transmitted the rates to servers and traders of LIBOR-based financial products around the world, including to those located in New York, New York and elsewhere.

4. The published LIBOR rates were used as the basis for the pricing of fixed-income futures, options, swaps, forward rate agreements, and other derivative instruments. Interest rate swaps involved an agreement between counterparties to exchange payments in the future: one counterparty paid a fixed rate while the other paid a variable rate. Generally, the fixed rate was agreed upon at the outset by the counterparties and the variable rate was set at some point in the

future. Often times, the variable rate was based on a reference rate such as Yen LIBOR. The actual value of the contract could not be determined until the date on which the variable rate was set. At that point, payment amounts were determined, and, depending on the value of the variable rate, one party made money and the other lost money.

5. Traders made predictions on where LIBORs would set in the future. Traders, on behalf of their respective financial institutions, often entered into multiple derivatives contracts containing LIBORs as a price component based on those views. Therefore, the profit and loss that flowed from those contracts was directly affected by the relevant LIBORs on certain dates. If the relevant LIBORs moved in the direction favorable to the trader's position, the financial institution and the trader benefitted at the expense of their counterparties. When the traders' predictions were wrong and LIBOR moved in an unfavorable direction, the traders and the financial institutions stood to lose money to their counterparties.

6. Because traders often took large derivative positions, even small moves in the LIBOR fix could result in large swings in profits or losses from trades.

7. Yen LIBOR globally impacted transactions and financial products tied to Yen LIBOR. In addition to being used to price derivative products, financial institutions and other lenders in the United States and elsewhere frequently used LIBOR to set their own reference interest rates for financial instruments and consumer lending products, which included mortgages, credit cards, and student loans, among others.

8. A Contributor Panel bank's submission was to be an independent estimate of that bank's borrowing costs, and not altered to reflect trading positions that stood to gain or lose based on LIBOR rates.

9. Because LIBOR was calculated as an average of banks' submissions, if a bank coordinated its submission with another Contributor Panel bank, it could affect the fix more significantly than if it manipulated only its own submission.

10. As explained above, each panel bank made daily submissions to the BBA purporting to report the rates at which it could borrow sums of a "reasonable market size" from other banks for specified maturities.

11. At certain times relevant to this Indictment, prior to making Yen LIBOR submissions to the BBA, submitters at various Yen LIBOR panel banks consulted with inter-dealer brokers to learn about transactions, activity, or trends in the short-term money markets in which banks would lend and borrow Yen. Because these brokers had knowledge regarding the interest rates paid in such money market transactions, Yen LIBOR submitters considered such information, at certain times, in determining their banks' submissions.

12. Most futures contracts and option contracts use the same four dates per year as their maturity date or termination date – the third Wednesday of March, June, September, and December. These are called the IMM dates, or International Money Market dates, and they are among the most traded days of the year. Many of those contracts are priced using the three-month LIBOR rates.

The Defendants

13. Beginning in or about July 2006 through in or about September 2009, HAYES, the defendant, worked as a senior Yen swaps trader at UBS in Tokyo. At certain times relevant to this Indictment, he was assisted by a junior trader (the "UBS Junior Trader"). From in or about December 2009 through in or about September 2010, after leaving UBS, HAYES was employed as a senior Yen swaps trader at Bank D in Tokyo.

14. At certain times relevant to this Indictment, DARIN, the defendant, worked as a short-term interest rates trader at UBS in Singapore, Tokyo, and Zurich. At certain times during his tenure at UBS, in addition to trading, DARIN was also responsible for the bank's Yen LIBOR submissions to the BBA, and supervised two junior short-term interest rate traders ("UBS Junior Submitter 1" and "UBS Junior Submitter 2"), who also submitted UBS's Yen LIBORs to the BBA.

Other Individuals and Organizations

15. UBS Junior Trader began working at UBS in or around 2006, and he became HAYES's junior trader in or around May 2008. He worked in Tokyo with HAYES.

16. UBS Junior Submitter 1 began working at UBS in or around 1980, and he began setting Yen LIBOR in or around February or March 2007. He was trained to set LIBOR by DARIN, and he worked in Zurich. He was supervised by DARIN

17. UBS Junior Submitter 2 worked for UBS, and he also had responsibility for setting Yen LIBOR. He was also supervised by DARIN.

18. Broker A1 was an interdealer broker for Brokerage Firm A.

19. Broker A2 was an interdealer broker for Brokerage Firm A.

20. Broker A3 was an interdealer broker for Brokerage Firm A.

21. Broker B was an interdealer broker for Brokerage Firm B.

22. Trader A was a Yen swaps trader at Bank A.

23. Trader B was a Yen swaps trader at Bank B.

24. Bank C Submitter was responsible for submitting the Yen LIBOR rate at Bank C.

25. Trader C was a Yen swaps trader at Bank C.

26. Bank D Submitter was responsible for submitting the Yen LIBOR rate at Bank D.

27. Trader D was a Yen swaps trader at Bank D.

28. Bank A was a global financial services company headquartered in New York, New York. Bank A was a member of the Yen LIBOR contributor panel.

29. Bank B was a global financial services company headquartered in Frankfurt, Germany. Bank B was a member of the Yen LIBOR contributor panel.

30. Bank C was a global financial services company headquartered in Edinburgh, Scotland. Bank C was a member of the Yen LIBOR contributor panel.

31. Bank D was a global financial services company headquartered in New York, New York. Bank D was a member of the Yen LIBOR contributor panel.

32. Bank E was a global financial services company headquartered in Charlotte, North Carolina. Bank E was a member of the Yen LIBOR contributor panel.

33. Swap Dealer A was a trading firm that traded in interest rate and currency related products, and it was headquartered in New York, New York.

34. UBS AG was a global financial services company headquartered in Basel and Zurich Switzerland, with eleven principal offices around the world, including New York, New York. At certain times relevant to this Indictment, UBS AG operated, among other wholly-owned subsidiaries, UBS Securities Japan Ltd., an investment bank and financial services firm based in Tokyo, Japan (collectively, "UBS"). UBS was a member of the Yen LIBOR contributor panel.

35. Brokerage Firm A and Brokerage Firm B (collectively, the "Brokerage Firms") were London-based, interdealer brokers that, in exchange for commissions or other fees, matched buyers and sellers in various financial products, enabling them to engage in transactions. The Brokerage Firms provided such services to numerous clients, including Yen LIBOR panel banks, for Yen money market transactions, among other things.

UBS's Trading in Yen LIBOR-Based Derivative Products

36. UBS and other Yen LIBOR panel banks engaged in the trading of Yen LIBOR-based derivative products such as futures, forward rate agreements, and interest rate swaps. Interest rate swaps, for example, are a type of financial product in which two parties agree to exchange interest rate cash flows based on a specified notional amount. In one common type of interest rate swap, each party agrees to pay either a fixed or floating rate denominated in a particular currency to the other party. The fixed or floating rate is multiplied by a notional principal amount to calculate the cash flows which must be exchanged at settlement. This notional amount generally does not change hands. LIBOR is a leading global benchmark used to index the floating rate in interest rate swaps.

37. HAYES and DARIN, among other UBS traders, traded in interest rate swaps and other interest rate derivative products indexed to different maturities of Yen LIBOR (such as 3-month or 6-month Yen LIBOR), effectively wagering on the direction in which Yen LIBOR would move. UBS compensated the defendants, in part, based on the profitability of their trading positions, effectively tying the defendants' bonuses to their success in predicting the movements of Yen LIBOR.

The Conspiracy

38. From at least in or about September 2006 through in or about June 2010, in the Southern District of New York and elsewhere, HAYES and DARIN, the defendants, and others known and unknown, did knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is:

- a. to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted certain wire communications in interstate and foreign commerce for the purpose of executing the scheme, all affecting a financial institution; to wit, the defendants engaged in a scheme to manipulate and attempt to manipulate the benchmark interest rates referenced by derivative products throughout the financial industry to their advantage, by the dissemination, and submission, of false and fraudulent statements intended to influence and manipulate the benchmark interest rates to which the profitability of interest rate derivative trades was tied, in violation of Title 18, United States Code, Section 1343; and
- b. to execute and attempt to execute a scheme and artifice to defraud a financial institution, as defined under 18 U.S.C. § 20 and 18 U.S.C. § 3293(2), the deposits for which were at the time insured by the Federal Deposit Insurance Corporation; and to obtain and attempt to obtain moneys, funds, credits, assets, and other properties owned by and under the custody and control of a financial institution by means of materially false and fraudulent pretenses, representations, and promises, as well as by omission of material facts in violation of Title 18, United States Code, Section 1344.

Purpose of the Conspiracy

39. From at least in or about September 2006 through in or about June 2010, HAYES, together with DARIN and with others known and unknown, orchestrated a scheme to manipulate

Yen LIBOR to maximize profits for their trading positions at the expense of HAYES's counterparties.

Manner and Means

40. Among other fraudulent devices to manipulate Yen LIBOR in a direction favorable to his trading positions, HAYES engaged in the following manner and means to execute his fraudulent scheme:

- a. HAYES conspired with DARIN, UBS Junior Trader, UBS Junior Submitter 1, UBS Junior Submitter 2, and others known and unknown within UBS, to cause the bank to make false and misleading Yen LIBOR submissions to the BBA;
- b. HAYES, and others known and unknown, also enlisted brokers employed at the Brokerage Firms for the purpose of disseminating false and misleading interest rate information into the marketplace. By disseminating false and misleading information through the Brokerage Firms, HAYES, and others known and unknown, furthered the scheme to manipulate Yen LIBOR to move in directions favorable to HAYES's trading positions. In exchange for this assistance from the brokers, HAYES arranged for the Brokerage Firms to be compensated in the form of increased fees or trading commissions;
- c. HAYES regularly contacted Yen swaps traders employed at other Yen LIBOR panel banks, including Bank A, Bank B, and Bank C. HAYES asked such traders either to request particular Yen LIBOR submissions from their banks' respective submitters or to move their banks' submissions in a particular direction (upward or downward). In this way, HAYES not only directly influenced UBS's Yen

LIBOR submissions, but also sought to influence the submissions of other Yen LIBOR panel banks. By taking trading positions aligned with HAYES's trading positions, the traders at Bank A, Bank B, and Bank C could likewise profit from manipulating their own respective banks' submissions to move in the same direction that HAYES was requesting for UBS's submissions; and

- d. After HAYES left his employment at UBS and began working as a senior Yen swaps trader at Bank D, HAYES attempted to cause a Yen LIBOR submitter at Bank D to provide false and misleading information in Bank D's daily Yen LIBOR submissions to the BBA, and he remained in contact with brokers from Brokerage Firm A, Trader B, and the UBS Junior Trader, among others, in a continued effort to manipulate Yen LIBOR submissions in a way that was favorable to HAYES's trading positions.

41. In this manner, HAYES, together with DARIN and others known and unknown, devised and carried out a scheme to defraud UBS's and Bank D's counterparties and also globally impacted transactions and financial products tied to Yen LIBOR. Counterparties entering into Yen LIBOR-based derivative trades with HAYES, and therefore UBS and Bank D, did not know about this manipulation and were deceived regarding its occurrence.

42. On approximately 352 of the 738 trading days from in or about November 2006 through in or about August 2009, HAYES or the UBS Junior Trader, at HAYES's direction, requested that DARIN, UBS Junior Submitter 1, or UBS Junior Submitter 2 accommodate HAYES's requests when setting UBS's Yen LIBOR submissions. At certain times in this period, HAYES requested accommodations for continuous days. HAYES engaged in this conduct both before and after entering into trades with various counterparties.

43. HAYES and DARIN – both before and during the period of the conspiracy – traded regularly with counterparties located in the United States. For instance, between 2006 and 2009, HAYES entered into approximately 27,170 Yen LIBOR/Euroyen TIBOR trades – approximately 8% of which (2,275) were with United States-based counterparties. Hayes’ 2,275 trades with several different United States-based counterparties had a total notional value of approximately \$1.3 trillion. Similarly, between 2006 and 2010, DARIN entered into approximately 111 Yen LIBOR/ Euroyen TIBOR trades while working for UBS – approximately 10% of which (12) were with United States-based counterparties. DARIN’s twelve trades with several different United States-based counterparties had a total notional value of approximately \$7.9 billion.

44. At certain times relevant to this Indictment, counterparties to HAYES’s trading positions included entities located in New York, New York, which were financial institutions, within the meaning of Title 18, United States Code, Section 20.

45. At various times relevant to this Indictment, DARIN engaged in electronic chats with HAYES, chats that were routed through servers based in New York, New York. Additionally, at various times relevant to this Indictment, HAYES and DARIN, and others known and unknown, caused the publication of manipulated interest rate information in New York, New York.

Overt Acts

46. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

A. Falsifying UBS’s Yen LIBOR Submissions

47. From at least in or about September 2006 through in or about August 2009, HAYES, DARIN, and others known and unknown, caused UBS repeatedly to provide false and misleading information in its daily Yen LIBOR submissions to the BBA regarding the interest

rates at which UBS could borrow reasonable sums denominated in Yen from other banks. As explained above, HAYES and DARIN provided this false and misleading information to cause the final Yen LIBOR fixings published by Thomson Reuters to move in directions favorable to UBS trading positions in Yen LIBOR-based derivative products.

48. For example, in an electronic chat on or about November 20, 2006:

- a. HAYES explained to UBS Junior Submitter 1 that HAYES and DARIN “generally coordinate” and “skew the libors a bit.” HAYES further stated: “really need high 6m fixes till thursday.”¹
- b. UBS Junior Submitter 1 then responded: “will def be on the high side.”
- c. On the trading day preceding this chat, UBS’s submission for 6-month Yen LIBOR was tied for the second lowest submission to the BBA. However, following HAYES’s request, the bank’s submission became among the highest and remained so through the Thursday identified in the request. On or about Friday, November 24, 2006, UBS’s submission returned to a level that was tied for the third lowest on the Yen LIBOR panel.

49. In or about early 2007, DARIN trained UBS Junior Submitter 2 and told him that the primary consideration in determining UBS’s Yen LIBOR submissions each day was the requests from HAYES and other UBS Yen swaps traders. DARIN advised UBS Junior Submitter 2 that such requests were to be accommodated, and UBS Junior Submitter 2 subsequently complied with DARIN’s instruction.

¹ All shorthand, misspellings, and grammatical or typographical errors in the originals have been preserved in the excerpts quoted in this Indictment. The ellipses included in the quoted excerpts throughout were either in the original or indicate a line break in the original.

50. DARIN also personally accommodated requests from HAYES and other UBS Yen swaps traders. For example, in an electronic chat on or about March 29, 2007:

- a. HAYES requested, among other things, that UBS's 3-month Yen LIBOR submission be "low," to which DARIN responded: "ok."
- b. DARIN subsequently indicated that UBS's "unbiased" 3-month Yen LIBOR submission would be 0.69 percent and that he could not set too far away from the "truth" or he would risk getting UBS "banned" from the Yen LIBOR panel.
- c. HAYES then responded, in part: "ok obviously; no int in that happening either ...not asking for it be 7bp from reality ...anyway any help appreciated."
- d. Subsequent to the chat, UBS's 3-month Yen LIBOR submission was 0.67 percent instead of the "unbiased" 0.69 percent that DARIN suggested otherwise would have been submitted. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 3-month Yen LIBOR fix was 1/8 of a basis point lower than it otherwise would have been had UBS's submission remained at the "unbiased" 0.69 percent.

51. Although the movements in Yen LIBOR submissions requested by HAYES and the UBS Junior Trader who acted at his direction could be measured in basis points, the yields to HAYES's trading positions were considerable. In fact, at certain times relevant to this Indictment, HAYES indicated in his requests to DARIN or UBS Junior Submitter 2 approximately how much his trading positions would benefit from even relatively slight movements in the resulting Yen LIBOR fix. For example, in a series of electronic chats from on or about Wednesday, March 12, 2008, through on or about Monday, March 17, 2008:

- a. On or about Wednesday, March 12, 2008, HAYES asked UBS Junior Submitter 2 for a “high” 3-month Yen LIBOR submission because “we have 2m usd fix in 3m on monday ... per bp.” UBS’s trading records confirm that HAYES had a net trading position on or about Monday, March 17, 2008, that would profit by approximately \$2.1 million based on a one basis point increase in the 3-month Yen LIBOR fix on that day.
- b. UBS Junior Submitter 2 then responded that UBS’s 3-month Yen LIBOR submission of 0.99 percent had been on the very high side the previous day and, as a result, UBS Junior Submitter 2 needed to go lower and “thought about 0.97.” HAYES then inquired whether 0.98 percent was possible, but noted: “anyway the actual fix is monady ... so thats the key day.”
- c. That same day, notwithstanding UBS Junior Submitter 2’s suggestion that a 0.97 percent submission was more appropriate, UBS’s 3-month Yen LIBOR submission was 0.98 percent, consistent with HAYES’s request.
- d. The following two days – on or about Thursday, March 13, 2008, and on or about Friday, March 14, 2008 – UBS Junior Submitter 2 increased the bank’s 3-month Yen LIBOR submission to 0.99 percent.
- e. On or about Monday, March 17, 2008, the “key day” for his trading position, HAYES noted that he had spoken with DARIN regarding the 3-month Yen LIBOR submission and inquired whether “we could push it a bit more than usual.” UBS Junior Submitter 2 then replied: “friday fixed 3mt at 0.99 ... shall i go fro 1%?” HAYES then answered “pls,” to which UBS Junior Submitter 2, replied: “ok will do.”

- f. On or about Monday, March 17, 2008, UBS's 3-month Yen LIBOR submission was 1.00%. On that day, alone, the resulting 3-month Yen LIBOR fix generated approximately \$759,000 in additional profits for HAYES's trading book and, ultimately, for UBS compared to that which it would have earned had the bank's submission remained at 0.97 percent.
- g. The following day, on or about Tuesday, March 18, 2008, UBS's 3-month Yen LIBOR submission decreased to 0.95 percent.

52. Likewise, in an electronic chat on or about April 28, 2008:

- a. HAYES requested a low 6-month LIBOR submission from DARIN and asked: "hi roger i have a 500k usd fix in 6m today, can we try to keep it on the low side pls?"
- b. DARIN then replied: "i'll submit something low ... but if u can u should square it up." DARIN then added: "the correct 6m is 1.08."
- c. HAYES subsequently responded: "appreciate the help."
- d. That same day, UBS's 6-month Yen LIBOR submission was 0.98 percent, compared to DARIN's "correct" rate of 1.08 percent. According to BBA records, the resulting 6-month Yen LIBOR fix was 1/4 of a basis point lower than it would have been had UBS submitted the "correct" rate of 1.08 percent.

53. Similarly, in an electronic chat on or about June 29, 2009:

- a. In requesting a high 6-month Yen LIBOR submission from UBS Junior Submitter 2, HAYES inquired: "can we st 6m libor high pls?"
- b. UBS Junior Submitter 2 then responded that, based on available information, UBS's 6-month Yen LIBOR submission likely would be 0.7150 percent.

- c. HAYES then asked: “can we go 74 or 75 ... We have 2m usd a bp fix.”
- d. UBS Junior Submitter 2 then responded: “yes sure will. i go with .75 for you.”

UBS’s 6-month Yen LIBOR submission was indeed 0.75 percent that day, which was 3.5 basis points higher than the rate which UBS Junior Submitter 2 would have submitted.

- e. According to BBA records of Yen LIBOR panel bank submissions for that day, UBS’s 6-month Yen LIBOR submission of 0.75 percent placed it in the upper quartile, which meant that another bank’s submission which would have been otherwise discarded was moved down into the “middle eight” and averaged to determine the final LIBOR fix. As a result of that change, the 6-month Yen LIBOR fix that day was increased by 1/16 of a basis point.

54. At certain times relevant to this Indictment, counterparties to DARIN’s trading positions included entities located in New York, New York, elsewhere in the Southern District of New York, and elsewhere in the United States.

- a. For example, on or about January 20, 2006 and June 9, 2006, DARIN entered into Yen LIBOR-based forward rate agreements with Bank A. Similarly, on or about February 24, 2006, DARIN entered into a Yen LIBOR-based forward rate agreement with Swap Dealer A. Finally, on or about approximately September 26, 2007, DARIN entered into a Yen LIBOR-based forward rate agreement with Bank E.

55. At certain times relevant to this Indictment, HAYES engaged in Yen LIBOR-based derivative transactions with a counterparty (the “Counterparty”) based in Purchase, New York.

- a. For example, on or about September 12, 2007, HAYES entered into two trades with the Counterparty for derivative products tied to 6-month Yen LIBOR. The confirmations for these trades were electronically routed from UBS's offices overseas to the Counterparty's primary servers, located in Rye Brook, New York.
- b. On the valuation dates prior to the settlement of those trades, HAYES requested that UBS Junior Submitter 2 move UBS's 6-month Yen LIBOR submissions in the direction that maximized HAYES's profits on those trades. According to BBA records, compared to the previous day, the change in UBS's 6-month Yen LIBOR submission was consistent with the direction of HAYES's request on one of those dates.
- c. On or about July 15, 2008, HAYES again entered into a Yen LIBOR-based derivative transaction with the Counterparty, and the confirmation was again electronically routed through the Counterparty's servers in New York from overseas.
- d. Knowledge of HAYES's attempts to manipulate Yen LIBOR would have been material to the Counterparty's decisions to enter trades with HAYES and UBS.

B. Dissemination of False and Misleading Interest Rate Information Through the Brokerage Firms

56. At certain times relevant to this Indictment, a broker employed at Brokerage Firm A ("Broker A1") assisted HAYES in brokering interest rate derivative trades, and another broker employed at Brokerage Firm A ("Broker A2") distributed suggested LIBORs via a daily email to Yen LIBOR panel bank submitters and others, purporting to disclose where Broker A2, based on his information and experience, believed that Yen LIBOR would or should be set for that day at each specified maturity. HAYES solicited Broker A1 to intercede with Broker A2 to adjust

Broker A2's suggested LIBORs to benefit HAYES's trading positions. For example, in an electronic chat with Broker A1 on or about August 15, 2007:

- a. HAYES noted that he needed "to keep 6m up till tues then let it collapse."
- b. Broker A1 then responded, "doing a good job so far...as long as the liquidity remains poor we have a better chance of bullying the fix."
- c. Later that day Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by 2.5 basis points compared to the previous day.

57. The next day, in an electronic chat with Broker A1 on or about August 16, 2007:

- a. HAYES reiterated his need for a high 6-month Yen LIBOR fix and stated: "really really really need high 6m."
- b. Broker A1 then responded: "yep think i realise that" and "yes mate, will make myself useful."
- c. Later that day, Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by 6.5 basis points compared to the previous day.

58. At certain times relevant to this Indictment, multiple Yen LIBOR panel banks made submissions that mirrored exactly Broker A2's suggested LIBORs for extended periods of time. For example, in the period between January 1, 2008 and December 31, 2009, there were approximately 523 trading days, and on approximately 308 of those trading days, Bank D made submissions in all eight maturities that were identical to the forecasts from Broker A2, at times down to the fifth decimal point.

59. At certain times relevant to this Indictment, HAYES expressed appreciation to Broker A1 for Broker A2's influence. For example, in an electronic chat on or about August 22, 2008:

- a. Broker A1 stated, "think [Broker A2] is your best broker in terms of value added :-)."
- b. HAYES then replied: "yeah...i reckon i owe [Broker A2] a lot more."
- c. Broker A1 then responded: "[Broker A2's] ok with an annual champagne shipment, a few pi ss ups with [Broker A2's supervisor] and a small bonus every now and then."

60. At certain times relevant to this Indictment, HAYES engaged in similar contacts with a broker employed at Brokerage Firm B ("Broker B"), whom HAYES once referred to as "Lord Libor." For example, in an electronic chat with Broker B on or about February 25, 2009:

- a. HAYES instructed Broker B: "low 1m and 3m...we must keep 3m down." He then stated: "try for low on all of em."
- b. Broker B then responded: "ok ill do my best for those tday."
- c. To compensate Broker B for that assistance, HAYES then asked Broker B to broker a 150 billion Yen trade.
- d. Broker B then stated that the commissions the trade would generate would "make us make3 budget for the month so massive yes."

C. Efforts to Coordinate with Traders Employed at Other Yen LIBOR Panel Banks

61. At certain times relevant to this Indictment, HAYES contacted a Yen swaps trader employed at Bank A ("Trader A") in an effort to influence Bank A's Yen LIBOR submissions. For example, in an electronic chat with Trader A on or about January 19, 2007:

- a. HAYES asked, "bit cheeky but if you know who sets your libors and you aren't the other way I have some absolutely massive 3m fixes the next few days and

would really appreciate a high 3m fix.” HAYES then noted, “Anytime i can return the favour let me know as the guys here are pretty accommodating to me.”

b. Trader A then replied: “I will try my best.”

62. In another electronic chat on or about January 29, 2007:

a. Trader A requested of HAYES: “Anything you need on libors today? High 6m would help me.”

b. HAYES then responded: “high 3m i’ll sort our 6m rate for you thanks.”

c. Following this chat, HAYES contacted UBS Junior Submitter 1 and requested a high 6-month Yen LIBOR submission.

63. HAYES subsequently referenced efforts to coordinate with Trader A to a Yen swaps trader employed at Bank C (“Trader C”) to explain why the 3-month Yen LIBOR was high. For example, in an electronic chat on or about February 2, 2007:

a. HAYES explained: “3m libor is too high cause i have kept it artificially high.”

b. After Trader C inquired how HAYES had done that, HAYES responded: “being mates with the cash desks, [Bank A] and i always help each other out...too.”

64. At certain times relevant to this Indictment, HAYES contacted a Yen swaps trader employed at Bank B (“Trader B”) in a similar effort to influence Bank B’s Yen LIBOR submissions. For example, in an electronic chat from on or about May 21, 2009:

a. HAYES asked Trader B: “cld you do me a favour would you mind moving you 6m libor up a bit today, i have a gigantic fix.”

b. UBS’s trading records confirm that HAYES had a net trading position that day that would profit by approximately \$450,000 based on a one basis point increase in the 6-month Yen LIBOR fix on that day.

- c. Trader B then responded: "I can do taht."
- d. Bank B's 6-month Yen LIBOR submission then increased by six basis points compared to its submission the previous day.
- e. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 6-month Yen LIBOR fix was $\frac{3}{8}$ of a basis point higher than it otherwise would have been had Trader B left Bank B's submission at the same rate that it had been for the previous 26 trading days.
- f. Accordingly, just from the change in Trader B's 6-month Yen LIBOR submission, HAYES generated approximately \$112,000 in additional profits for his trading book and, ultimately, for UBS.

65. The following day, on or about May 22, 2009:

- a. Trader B asked HAYES: "u happy with me yesterday?"
- b. HAYES then replied: "thx."

66. At certain times relevant to this Indictment, HAYES contacted Trader C in a similar effort to influence Bank C's Yen LIBOR submissions. On occasion, HAYES also agreed to reciprocate and influence UBS's submissions to accommodate requests from Trader C. For example, in a series of electronic chats on or about March 6, 2007:

- a. Trader C requested that HAYES take steps to ensure low UBS Yen LIBOR submissions for all maturities: "can u go fr low everything plse?"
- b. HAYES then replied that he would make that request, but he personally needed a high 3-month Yen LIBOR fixing.
- c. HAYES then made a request to UBS Junior Submitter 1 consistent with Trader C's request for low 1-month and 6-month Yen LIBOR submissions, while

omitting the 3-month maturity which HAYES needed to remain high.

Specifically, HAYES stated: “hi pls don’t forget low 1m and 6m! :)”

- d. That day, compared to the previous day, UBS’s 1-month and 6-month Yen LIBOR submissions dropped by 2.0 and 2.5 basis points, respectively, consistent with Trader C’s request to HAYES.

67. HAYES also made similar requests of Trader C regarding Bank C’s Yen LIBOR submissions. For example, in a series of electronic chats between on or about April 19, 2007 through on or about April 24, 2007:

- a. On or about Thursday, April 19, 2007, HAYES requested assistance in lowering 3-month Yen LIBOR and stated: “have some huge huge fixes.” He then asked: “can you do me a favour and ask your cash guys for a low 3m?” (In numerous chats, HAYES referred to Yen LIBOR submitters as “cash guys,” “cash boys,” or the “cash desk.”)
- b. Trader C then responded: “will do my best i am pretty flat at teh moment so don’t really care.”
- c. That same day, Bank C’s 3-month Yen LIBOR submission was 0.65 percent, down from 0.67 percent the previous day.
- d. On or about Friday, April 20, 2007, HAYES stated: “hi mate thanks for keeping 3m low y/day wd really appreciate it if u cld try for the same over the next few days.” Later that day, HAYES again requested: “i know i only talk to you when i need something but if you could ask your guys to keep 3m low wd be massiye help as long as it doesn’t interfere with your stuff...tx in adavance.”

- e. Approximately 30 minutes later, HAYES further inquired: “mate did you manage to spk to your cash boys?”
- f. Trader C then responded: “yes u owe me they are going 65 and 71.” HAYES then replied: “thx mate yes i do...in fact i owe you big time.”
- g. Approximately 45 minutes later, HAYES learned that Bank C had made a 3-month Yen LIBOR submission of 0.64 percent that day, below even the number Trader C had previewed to him. Accordingly, HAYES expressed his gratitude and stated: “they set 64!...thats beyond the call of duty!”
- h. On or about Tuesday, April 24, 2007, HAYES stated: “hello mate thanks for the help on libors, if you cld ask for a low 3m for one last day wd be a big help, am meeting [a bank] tonight so i’ll drop your name into the conversation!”
- i. After three consecutive trading days at 0.64 percent, Bank C’s 3-month Yen LIBOR submission increased to 0.65 percent the following day, on or about Wednesday, April 25, 2007.

D. HAYES’s Post-UBS Conduct

68. In or about June 2010, HAYES attempted to cause a Yen LIBOR submitter at Bank D (the “Bank D Submitter”) to provide false and misleading information in its daily Yen LIBOR submissions to the BBA. For example, in an exchange of emails on or about June 1, 2010:

- a. HAYES asked a junior Yen swaps trader at Bank D (“Trader D”) to request that the Bank D Submitter make Yen LIBOR submissions favorable to HAYES’s trading positions and stated: “It really suits our book can we ask if we can just leave it there for a couple of weeks?” Trader D then responded: “I will mention it tomorrow morning so [the Bank D Submitter] has it in [the Bank D Submitter’s]

mind. But to be honest they are really nervous about it, so I don't think we can be too pushy."

69. At certain times during his tenure at Bank D, HAYES remained in contact with, among others, Broker A1, Trader B, and the UBS Junior Trader in a continued effort to solicit Yen LIBOR submissions that were favorable to HAYES's trading positions. In an electronic chat with the UBS Junior Trader on or about May 12, 2010:

- a. HAYES stated: "libors are going down tonight." The UBS Junior Trader then asked: "why you think so?" HAYES then explained: "because i am going to put some pressure on people."

70. While employed at Bank D, HAYES also made efforts to influence Bank C's Yen LIBOR submissions through another broker working at Brokerage Firm A ("Broker A3"). For example, in a series of electronic chats on or about March 3, 2010 through on or about March 4, 2010, HAYES and Broker A3 discussed whether they could cause Bank C's Yen LIBOR submitter (the "Bank C Submitter") to lower Bank C's 3-month Yen LIBOR submission:

- a. On or about March 3, 2010, HAYES told Broker A3: "i really need a low 3m jpy libor into the imm...any favours you can get with [Bank C Submitter] would be much appreciated...even if [the Bank C Submitter] on;ly move 3m down 1bp."
- b. Broker A3 then agreed to contact Bank C Submitter on behalf of HAYES.
- c. Following HAYES's request, Broker A3 asked the Bank C Submitter: "u see 3m jpy libor going anywhere btween now and imm?"
- d. Broker A3 continued: "we hve a mutual friend who'd love to see it go down, no chance at all?"

- e. The Bank C Submitter then speculated that the request came from HAYES and replied: “haha TH by chance.”
- f. Broker A3 then responded: “shhh.”
- g. That next day, on or about March 4, 2010, Bank C’s 3-month Yen LIBOR submission decreased by one basis point compared to the previous day, consistent with HAYES’s request to Broker A3.
- h. After the resulting Yen LIBOR fixings were posted, the Bank C Submitter told Broker A3: “Libor lower ;).”
- i. Broker A3 then responded: “good work!!!!”

71. On or about March 29, 2011, the UBS Junior Trader informed HAYES that the United States Department of Justice had contacted UBS in order to schedule an interview with the UBS Junior Trader.

72. In response, HAYES then advised the UBS Junior Trader to remove any belongings from Japan and to return to the foreign country where HAYES believed the UBS Junior Trader to be located. HAYES further cautioned that, “the U.S. Department of Justice, mate, you know, they’re like [unintelligible], the dudes who, you know, you know, absolutely like, you know, you know [unintelligible] put people in jail. Why the hell would you want to talk to them?”

(Title 18, United States Code, Section 1349.)

**COUNTS TWO AND THREE
(Wire Fraud, 18 U.S.C. § 1343)**

73. The allegations set forth in paragraphs 1 through 34 and 36 through 72 are hereby realleged as if set forth herein.

74. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant,

TOM ALEXANDER WILLIAM HAYES,

unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, all affecting a financial institution, to wit, HAYES caused confirmations to be transmitted from outside the United States—specifically UBS AG’s London branch—to a counterparty based in Purchase, New York, for transactions involving interest rate derivative products tied to a benchmark interest rate which HAYES was secretly manipulating.

COUNT	DATE
TWO	September 12, 2007
THREE	July 15, 2008

(Title 18, United States Code, Sections 1343 and 2)

**COUNTS FOUR THROUGH TEN
(Wire Fraud, 18 U.S.C. § 1343)**

75. The allegations set forth in paragraphs 1 through 34 and 36 through 72 are hereby realleged as if set forth herein.

76. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendants set forth below, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign

commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, all affecting a financial institution, to wit, on or about the dates set forth below, among other dates, in furtherance of the scheme to manipulate and attempt to manipulate the benchmark interest rates to which profitability of certain trades were tied, Thomson Reuters published a) the rates submitted by UBS and the other panel banks and b) the averaged rates – or LIBORs – by wire from the United Kingdom to New York, New York, among other places.

Count	DEFENDANTS	DATES
FOUR	HAYES DARIN	March 29, 2007
FIVE	HAYES	March 12, 2008
SIX	HAYES	March 13, 2008
SEVEN	HAYES	March 14, 2008
EIGHT	HAYES	March 17, 2008
NINE	HAYES DARIN	April 28, 2008
TEN	HAYES	June 29, 2009

(Title 18, United States Code, Sections 1343 and 2)

FORFEITURE ALLEGATIONS
(18 U.S.C. §§ 982(a)(2)(A) and 981(a)(1)(C))

77. The allegations contained in the General Allegations Section and in Counts 1 through 10 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which one or more of HAYES or DARIN has an interest.

78. Upon conviction of any of the violations alleged in Counts 1 through 10 of this Indictment, HAYES and DARIN, shall forfeit all of their right, title and interest to the United

States of any property, constituting or derived from proceeds obtained directly or indirectly as a result of the violation, pursuant to Title 18, United States Code, Section 982(a)(2)(A).

79. Upon conviction of any of the violations alleged in Counts 1 through 10 of this Indictment, HAYES and DARIN, shall forfeit all of their right, title and interest to the United States of any property, constituting or derived from proceeds obtained directly or indirectly as a result of the violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

80. The property subject to forfeiture, pursuant to Forfeiture Allegations paragraphs 76 and 77 above, includes but is not limited to the sum of all proceeds the defendants derived from the offenses alleged in this indictment.

81. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants,

- (1) cannot be located upon the exercise of due diligence,
- (2) has been transferred or sold to, or deposited with a third person,
- (3) has been placed beyond the jurisdiction of the Court,
- (4) has been substantially diminished in value, or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), made applicable through Title 18, United States Code, Section 982(b) and the provisions of Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(All pursuant to Title 18, United States Code, Section 982(a)(2)(A); Title 18, United States Code, Section 981(a)(1)(C) and the procedures set forth at Title 21, United States Code, Section 853, made applicable by Title 28, United States Code, Section 2461.)

Dated: 12/8/17

A TRUE BILL

Vincent DelMastio
FOREPERSON

12/8/17

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Vasanth
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Criminal Division
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Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

TOM ALEXANDER WILLIAM HAYES
And ROGER DARIN,

Defendants.

INDICTMENT

(18 U.S.C. §§ 1349, 1343, 2.)

JOON KIM

Acting United States Attorney

James DelMarco

Foreperson

12/8/17

FILED INDICTMENT. WARRANT ISSUED
ASSIGN TO J. CARTER

COT, usmj