

CI

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Jose L. Linares
	:	
v.	:	Criminal No. 14-458
	:	
MICHAEL CRAIG MARSHALL	:	18 U.S.C. § 371
	:	

SUPERSEDING INFORMATION

The defendant having waived in open court prosecution by indictment, and the defendant having waived any defenses in open court based upon any statutes of limitations or venue, the United States charges:

COUNT ONE

(Conspiracy to Falsify Records of a Broker-Dealer)

1. At all times relevant to this Superseding Information:
 - a. ConvergEx Group, LLC ("ConvergEx Group") was a company based in New York, New York that owned several operating subsidiaries, including broker-dealers and related companies offering brokerage services to U.S. and foreign institutional clients.
 - b. ConvergEx Global Markets Limited ("CGM Limited") was a wholly owned subsidiary of ConvergEx Group and was incorporated and headquartered in Bermuda. CGM Limited was registered as a broker-dealer in Bermuda.
 - c. G-Trade Services, LLC ("G-Trade") was a wholly owned subsidiary of ConvergEx Group based in New York, New York that was registered

with the United States Securities and Exchange Commission (“SEC”) as a broker-dealer.

d. ConvergEx Ltd. (“ConvergEx Ltd.”) was a broker-dealer based in London, U.K., and a wholly owned subsidiary of ConvergEx Group.

e. ConvergEx Asia Pacific Limited (“CAPL”) was a Hong Kong broker-dealer, and a wholly owned subsidiary of ConvergEx Group.

f. G-Trade, ConvergEx Ltd., CGM Limited, and CAPL (and, in certain instances their predecessor entities) offered global portfolio and block trading services to clients through the ConvergEx Global Markets Division (“CGM Division”), which was formerly known as G-Port.

g. Defendant MICHAEL CRAIG MARSHALL was a trader at CGM Limited and its predecessor entities and was part of the CGM Division. From in or about January 2008 through December 2011, defendant MARSHALL was a Senior Vice President of CGM Limited.

h. Clients placed orders to buy or sell securities with CGM Division sales traders at G-Trade or ConvergEx Ltd.—the client-facing brokers—by various means, including by telephone and e-mail. Clients agreed to pay G-Trade or ConvergEx Ltd. a commission for these services.

i. Upon receiving orders to buy or sell securities from clients, CGM Division sales traders at G-Trade or ConvergEx Ltd. routed such orders to CGM Limited by entering the information related to the orders into an order management system called G-Pro. Beginning at least as early as in or about

March 2010, the G-Pro order management system passed data through (and stored data on) a server located in Carlstadt, New Jersey, located in the District of New Jersey.

j. Traders at CGM Limited, including defendant MARSHALL, executed an order to buy or sell a security for a client by routing the order to a local broker in the local market where the security was traded.

k. After a local broker executed a trade, the local broker provided the traders at CGM Limited with trade execution details, including the times, prices, and number of shares of each security bought and sold.

l. Traders at CGM Limited, including defendant MARSHALL, used G-Pro to record the information related to the execution of a client's order, including the prices that CGM Limited obtained from the local broker that executed the trade.

m. Traders at CGM Limited regularly added a mark-up (an additional amount paid for the purchase of a security) or mark-down (a reduction of the amount received for the sale of a security) to the prices obtained from the local brokers, and recorded the price inclusive of any mark-up or mark-down in G-Pro in a column labeled "Client Price." Employees of ConvergEx Group, G-Trade, ConvergEx Ltd., CGM Limited, and CAPL, referred to mark-ups and mark-downs as "spread," "trading profits," or "TP."

n. After traders at CGM Limited completed a client's order, the broker who received the order from the client—generally G-Trade or ConvergEx

Ltd.—provided a trade confirmation (“confirm”) to the client.

o. The price per share on the confirm included any mark-up or mark-down taken by CGM Limited, without breaking out separately the amount of such mark-up or mark-down. The confirm separately listed the commission charged by the client-facing broker. The confirms also generally included a disclosure that orders might be directed to affiliates for execution and that such affiliates might act as principal and in that connection earn a mark-up, mark-down, or spread.

p. As relevant here, a time and sales report was a report that summarized each of the individual transactions, called “fills,” that were entered into to execute an order. For each fill, an accurate time and sales report should have identified the number of shares involved in the trade, the time at which the trade was executed on the local exchange, and the price at which the shares involved in the trade were either purchased or sold on the local exchange.

q. Providing a client an accurate time and sales report for a trade on which CGM Limited had taken spread would have risked revealing to the client that spread had been taken on the trade because the total price from the time and sales report would have only included the cost of the securities purchased or sold exclusive of any spread, and thus the total price would have been different from the total price reported on the client's confirm, which did include spread.

r. As a registered broker-dealer, G-Trade was required to make

and keep such records as the SEC, by rule, prescribed as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934. 15 U.S.C. § 78q(a). By rule, G-Trade was required to make and keep an accurate record of each brokerage order, including the price at which executed and, to the extent feasible, the time of execution. 17 C.F.R. 240.17a-3(a)(6).

The Conspiracy

2. From at least as early as in or about August 2009 through as late as in or about August 2011, in the District of New Jersey and elsewhere, defendant MARSHALL did knowingly and intentionally conspire and agree with others known and unknown to falsify the books and records of a broker-dealer, contrary to Title 15, United States Code, Sections 78q(a) and 78ff, and Title 17, Code of Federal Regulations, Section 240.17a-3.

Object of the Conspiracy

3. The object of the conspiracy was for defendant MARSHALL and others known and unknown to cause G-Trade, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, has prescribed as necessary and appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Securities Exchange Act of 1934, by causing G-Trade to make and keep false books and records related to brokerage orders, in violation of Title 15, United States Code, Sections 78q(a) and

78ff, in order to conceal the fact that spread had been taken on the brokerage orders for which G-Trade made and kept false books and records.

Manner and Means of the Conspiracy

4. It was a part of the conspiracy that when a client would request a time and sales report for a trade that included spread, the conspirators would create a false time and sales report containing data from other trades on the exchange that were not the client's trades, and would send such false report to the client, in order to hide the fact that spread had been included in the price.

5. It was a further part of the conspiracy that the conspirators would knowingly and willfully cause G-Trade to make and keep a record that contained falsified data that did not accurately reflect the prices and times at which a client's purchases or sales of securities were executed.

Overt Acts

6. In furtherance of the conspiracy and to effect the illegal object thereof, defendant MARSHALL, and others known and unknown, committed the following overt acts in the District of New Jersey and elsewhere:

a. On or about August 11, 2009, co-conspirator "J.D.", who was a trader at CGM Limited, sent an email to defendant MARSHALL asking him to review a time and sales report that contained falsified data regarding two orders to purchase New York Community Bancorp, Inc. ("NYB") securities on August 7, 2009 on behalf of a G-Trade client.

b. On or about August 11, 2009, defendant MARSHALL reviewed

the time and sales report to verify that the falsified data regarding the quantities, prices, and times of the purchases of NYB securities on August 7, 2009 matched trades that had been executed by the client and other individuals or entities on the New York Stock Exchange on August 7, 2009.

c. On or about August 11, 2009, co-conspirator J.D. emailed the false report to co-conspirator "T.L.", who was a sales trader at G-Trade, to send to the G-Trade client.

In violation of Title 18, United States Code, Section 371.



ANDREW WEISSMANN
Chief of the Fraud Section



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 14-458 (JLL)

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

MICHAEL CRAIG MARSHALL

SUPERSEDING INFORMATION FOR

18 U.S.C. § 371

PAUL J. FISHMAN

U.S. ATTORNEY NEWARK, NEW JERSEY

JASON LINDER, Trial Attorney
PATRICK M. PERICAK, Trial Attorney
(202) 305-4915

LESLIE FAYE SCHWARTZ
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
(973) 645-3986
