

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

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UNITED STATES OF AMERICA : CRIMINAL NO. 3:17CR *220 JAM*  
v. : U.S. DISTRICT COURT  
ANDRE FLOTRON : NEW HAVEN, CT VIOLATION:  
: 18 U.S.C. § 371 (Conspiracy)

INDICTMENT

The Grand Jury charges that at all times relevant to this Indictment:

The Defendant

1. Defendant ANDRE FLOTRON was employed as a precious metals trader at UBS AG (“UBS”), or its predecessor or affiliate.
2. UBS was one of the largest global banking and financial services companies in the world. UBS had operations in the United States, elsewhere in the Americas, Europe, Asia-Pacific, and other locations. UBS operated a global commodities trading business that included the trading of precious metals futures contracts. Precious metals futures contracts are futures contracts for the delivery of gold, silver, platinum, and palladium. UBS’s primary precious metals futures trading desks were located in: (i) Stamford, Connecticut; (ii) Zurich, Switzerland; and (iii) Singapore.
3. FLOTRON worked on UBS’s Stamford trading desk before moving to its Zurich trading desk.

4. UBS provided its futures traders, including FLOTRON, with automated trading software which had the ability to communicate with markets quickly and to place, modify, and cancel multiple orders nearly simultaneously.

#### Precious Metals Futures Trading

5. A futures contract is a standardized, legally binding agreement that, once executed, obligates the parties to the contract to buy or to sell a specific product or financial instrument in the future. That is, the buyer and seller of a futures contract agree on a price today for a product or financial instrument to be delivered (by the seller), in exchange for money (to be provided by the buyer), on a future date. Futures contracts trade on set, periodic expiration cycles, such as monthly or quarterly.

6. Futures contracts are traded on markets regulated by the United States Commodity Futures Trading Commission (“CFTC”).

7. Precious metals futures contracts trade on the Commodity Exchange, Inc. (“COMEX”).

8. COMEX uses the “Globex” global electronic trading platform, which allows market participants to trade futures contracts from virtually anywhere in the world. Traders using Globex can place orders in the form of “bids” to buy or “offers” to sell one or more futures contracts at various prices, or “levels.” Globex uses an “order book” that displays anonymous orders either to bid or to offer futures contracts. An order is “filled” or “executed” when a buyer’s bid price and a seller’s offer price match.

Spoofing

9. “Spoofing” is a term for the practice of bidding or offering futures contracts with the intent, at the time the bid or offer is placed, to cancel the bid or offer before it is filled.

10. Spoofing can be used to manipulate the market for futures contracts in the following way:

a. A trader places one or more large orders either to buy or to sell certain futures contracts which the trader intends to cancel before they are executed (“Spoof Orders”). To drive prices up, the trader places Spoof Orders to buy, which create the false impression in the market of increased demand. To drive prices down, the trader places Spoof Orders to sell, which create the false impression in the market of increased supply.

b. Near the same time as the Spoof Orders, the same trader also places opposite orders in a much lower quantity that the trader actually intends to execute (“Primary Orders”).

c. Other market participants react to the false impression created by the Spoof Orders by buying and selling at prices and at times that they otherwise would not. This, in turn, often causes the market price of a given futures contract to rise or to fall.

d. When the market price changes as a result of the Spoof Orders in a manner, and to a degree, that the trader intends, the trader’s Primary Orders

are filled at prices and at times that otherwise would not have been available, but for the Spoof Orders.

COUNT ONE

(Conspiracy to Commit Offenses Against the United States)

11. The allegations set forth in paragraphs 1 through 10 are hereby re-alleged and incorporated as though set forth in full herein.

12. Beginning in approximately July 2008 and continuing through approximately November 2013, the exact dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, the defendant FLOTRON and others known and unknown to the Grand Jury, did unlawfully, knowingly, and intentionally conspire, combine, confederate, and agree with each other and others, both known and unknown to the Grand Jury, to:

a. knowingly and with the intent to defraud, devise and willfully participate in a scheme and artifice to defraud participants in the market for precious metals futures contracts on COMEX and to obtain money and property from them, including the right to make a discretionary economic decision, by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute the scheme and artifice, to knowingly transmit and cause to be transmitted by means of wire communication in interstate and

foreign commerce, writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343;

b. knowingly and with the intent to defraud, execute and willfully participate in a material scheme and artifice to defraud market participants in connection with commodities for future delivery, that is, precious metals futures contracts, in violation of Title 18, United States Code, Section 1348(1); and

c. knowingly engage in trading, a practice, and conduct on or subject to the rules of a registered entity, namely COMEX, that was “spoofing,” that is, bidding and offering with the intent, at the time the bid or offer was entered, to cancel the bid or offer before execution, in violation of Title 7, United States Code, Sections 6c(a)(5)(C) and 13(a)(2).

#### Purpose of the Conspiracy

13. It was the purpose of the conspiracy for FLOTRON and his co-conspirators to unlawfully enrich themselves and UBS by obtaining illicit trading profits and avoiding losses.

#### Manner and Means of the Conspiracy

14. The manner and means by which FLOTRON and others, both known and unknown to the Grand Jury, sought to accomplish the object of the conspiracy included:

a. Placing Spoof Orders for precious metals futures contracts, that is, large orders which FLOTRON and his co-conspirators entered with the

intent, at the time the orders were entered, to cancel before execution. These Spoof Orders were designed and intended to deceive participants in the market for precious metals futures contracts by supplying materially misleading information about increased supply or demand. This information frequently induced market participants to buy or to sell precious metals futures contracts at prices and at times that they otherwise would not, thereby driving up or down the price of those precious metals futures contracts. While the Spoof Orders were pending, FLOTRON and his co-conspirators often executed smaller Primary Orders in the precious metals futures contracts market in order to buy or to sell at prices and at times that otherwise were not available.

b. Training and instructing others at UBS to enter such Spoof Orders.

#### Overt Acts

15. In furtherance of the conspiracy and to accomplish its purposes and objects, FLOTRON and others, both known and unknown to the Grand Jury, committed and caused others to commit at least one of the following overt acts, among others, in the District of Connecticut and elsewhere:

a. In or around July 2008, FLOTRON trained and instructed UBS Trader #1, whose identity is known to the Grand Jury, in the practice of using Spoof Orders in the precious metals futures markets.

b. In or around October 2008 through in or around October 2012, and based on FLOTRON's training and instruction, UBS Trader #1 entered Spoof Orders in the precious metals futures markets.

c. On October 14, 2013, FLOTRON placed a Primary Order to buy five gold futures contracts at the price of \$1,284.80 at 8:26:47.706 a.m. Eastern, then placed a Spoof Order to sell 55 gold futures contracts at the price of \$1,285.10 at 8:26:48.474 a.m. Eastern.

All in violation of Title 18, United States Code, Section 371.

CRIMINAL FORFEITURE ALLEGATION  
UNDER 28 U.S.C. § 2461(c) & 18 U.S.C. § 981(a)  
(Conspiracy to Commit Wire Fraud)

16. Upon conviction of the conspiracy to commit wire fraud offense alleged in Count One of this Indictment, defendant ANDRE FLOTRON shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), all right, title, and interest in any and all property, real or personal, which constitutes or is derived from proceeds traceable to conspiracy to commit wire fraud under Title 18, United States Code, Section 1343, in violation of Title 18, United States Code, Section 371, including but not limited to a money judgment for a sum of money equal to the total amount of any property, real or personal, which constitutes or is derived from proceeds obtained as a result of that offense.

17. If any of the above-described forfeitable property, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the

jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

All in accordance with 18 U.S.C. § 981(a)(1) as incorporated by 28 U.S.C. § 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.

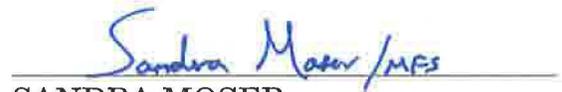
A TRUE BILL

/s/

FOREPERSON

UNITED STATES OF AMERICA

  
DEIRDRE M. DALY  
UNITED STATES ATTORNEY  
DISTRICT OF CONNECTICUT

  
SANDRA MOSER  
ACTING CHIEF, FRAUD SECTION  
CRIMINAL DIVISION  
U.S. DEPARTMENT OF JUSTICE

  
JONATHAN N. FRANCIS  
ASSISTANT U.S. ATTORNEY

  
MATTHEW F. SULLIVAN  
TRIAL ATTORNEY