

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 371 - Conspiracy to Make a Materially False and Misleading Statement to an Accountant

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY: • a five (5) year prison term (18 U.S.C. § 371);
 • a \$250,000 fine (18 U.S.C. § 3571(b)(4));
 • a three (3) year term of supervised release (18 U.S.C. § 3583(b)(2)); and
 • a \$100 special assessment (18 U.S.C. § 3013(a)(2)(A)).

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

DEFENDANT - U.S.

▶ CRAIG S. ON

DISTRICT COURT NUMBER

CR 14 544

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FDIC-OIG

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form MELINDA HAAG

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) Adam A. Reeves

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges ▶
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction } Federal State
 - 6) Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST ▶ Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ▶ Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address: _____

Date/Time: _____ Before Judge: _____

Comments: No process is required at this time. The government and the defendant will schedule an arraignment date.

FILED
2014 OCT 30 A 11:26
RICHARD W. WICKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 MELINDA HAAG (CABN 132612)
United States Attorney
2
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

WHA

CR 14 544

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 CRAIG S. ON,)
15 Defendant.)
16

Case No. CR)
VIOLATION: 18 U.S.C. § 371 – Conspiracy to)
Make a Materially False and Misleading Statement to)
an Accountant; 18 U.S.C. § 981(a)(1)(C) and 28)
U.S.C. § 2461 - Forfeiture of Fraud Proceeds)

17 INFORMATION

18 The United States Attorney charges:

19 I. Background

20 At all relevant times:

21 A. The Bank

22 1. United Commercial Bank (UCB) was a commercial bank headquartered in San Francisco,
23 California, with branch offices throughout the United States as well as in China and Taiwan. UCB
24 provided a full range of commercial and consumer banking products to businesses and individuals.

25 2. UCBH Holdings, Inc. (UCBH), a Delaware corporation, was the holding company for
26 UCB. UCBH was a publicly-traded company whose shares were registered with the United States
27 Securities and Exchange Commission (SEC) and were traded on the National Association of Securities
28 Dealers Automatic Quotation (NASDAQ) system under the symbol "UCBH." Hereafter, UCBH and

1 UCB are referred to collectively as “the Bank.”

2 3. As a public company, the Bank was required to comply with the SEC's rules and
3 regulations, which were designed to protect the investing public. Under those rules and regulations, the
4 Bank was required to (a) make and keep books, records, and accounts, which, in reasonable detail,
5 accurately and fairly reflected the transactions and disposition of the assets of the Bank; (b) devise and
6 maintain a system of internal accounting controls sufficient to provide reasonable assurances that the
7 Bank's transactions were recorded as necessary to permit preparation of financial statements in
8 conformity with Generally Accepted Accounting Principles (GAAP); and (c) file annual reports with the
9 SEC that contained audited financial statements that accurately and fairly presented the financial
10 condition of the Bank, as well as other reports that contained information about the Bank's management,
11 board of directors, business operations, and performance.

12 4. KPMG, LLP, a public accounting firm, acted as the independent auditor of the Bank's
13 annual financial statements and reviewed the financial statements it filed quarterly.

14 5. The Bank was regulated by, among other agencies, the Federal Deposit Insurance
15 Corporation (FDIC). The FDIC required, among other things, that the Bank be adequately capitalized
16 and safely managed at all times. The FDIC required that the Bank file quarterly financial statements
17 with the FDIC known as “call reports.”

18 B. The Defendant

19 6. Defendant, CRAIG S. ON, was a resident of Berkeley, California. From approximately
20 October 2008 through November 2009, ON served as the Bank's Chief Financial Officer.

21 C. The Bank's Loan Loss Allowance

22 8. The Bank's business loans were booked as assets on the quarterly and annual financial
23 statements filed with the SEC. Interest accrued on business loans was booked as revenue on those
24 quarterly and annual financial statements.

25 9. The Bank assigned risk ratings to its loans. Each rating represented the current
26 likelihood, based on all available information, that the borrower would pay the amount due under the
27 borrower's loan agreement with the Bank. Changes in risk ratings were reflected in internal records
28 specifically prepared for that purpose.

1 10. The Bank deemed a loan to be "impaired" if, based on all current information, it was
2 probable that the Bank would be unable to collect all of the amounts due under the loan agreement. On
3 a quarterly basis, the Bank represented to its regulators, its auditor, and the investing public, that the
4 Bank had estimated the total dollar amount of outstanding loans that the Bank would probably not
5 collect from borrowers. This estimate, identified on the Bank's quarterly and annual financial statements
6 as the "Allowance for Loan Losses" (hereafter, the "Loan Loss Allowance"), was derived from, among
7 other things, the Bank's risk ratings as well as the value of the collateral securing the Bank's loans.

8 11. By decreasing the Loan Loss Allowance, the Bank increased net assets on the balance
9 sheet and increased net income on the income statement. For this reason, the size of the Bank's Loan
10 Loss Allowance was material to stock analysts and the investing public. The Bank's Loan Loss
11 Allowance was also material to bank regulators such as the FDIC, which monitored the Bank's Loan
12 Loss Allowance and total assets to ensure that the Bank was adequately capitalized.

13 D. The Bank's Expanding Loan Portfolio

14 12. Between 2004 and 2007, the Bank's loan portfolio increased from approximately \$4.4
15 billion to more than \$8 billion. By September 2008, the Bank's loan portfolio faced growing losses.

16 13. On or about October 3, 2008, Congress created the Troubled Asset Relief Program
17 (TARP), as part of the Emergency Economic Stabilization Act of 2008.

18 14. On or about November 14, 2008, the United States provided approximately \$297 million
19 in TARP funds to the Bank.

20 II. The Conspiracy

21 A. Objectives of the Conspiracy

22 15. Beginning in or about 2009, ON, together with others, engaged in conspiracy to deceive
23 the Bank's auditor by manipulating the Bank's books and records in a manner that, as ON well knew, (a)
24 misrepresented and concealed the Bank's true financial condition and performance by falsifying the
25 books and records so they did not fairly and accurately reflect, in all material respects, the transactions
26 and dispositions of the assets of the Bank, and omitted facts necessary to make the books and records
27 complete and accurate; and (b) caused the Bank to issue false and misleading statements and
28 representations about its financial condition and performance, because such statements did not fairly and

1 accurately, in all material respects, reflect the Bank's actual financial condition and performance, and
2 omitted facts necessary to make those statements complete and accurate.

3 16. The objectives of the conspiracy were, among other things, to (a) conceal, delay, and
4 avoid publicly reporting the number, and financial magnitude, of the Bank's impaired loans; (b) conceal,
5 delay, and avoid publicly reporting the Bank's true loan losses; and (c) mislead the Bank's auditors
6 about the Bank's financial condition and performance.

7 B. Manner and Means of the Conspiracy

8 17. In furtherance of the conspiracy, ON, and others, caused the Bank to fraudulently conceal
9 information showing the Bank's loan collateral and repossessed assets had declined in value.

10 18. As a further part of the conspiracy, ON, and others, falsified the Bank's books and
11 records. Among other things, ON, and others, prepared and caused to be prepared financial statements
12 that both falsely described, and omitted material information necessary to accurately describe, the
13 likelihood that loans would be repaid pursuant to the Bank's loan agreements and the value of the Bank's
14 loan collateral and repossessed assets. As a consequence, the description of the Bank's loans and
15 repossessed assets presented in those financial statements was false, misleading, and fraudulent.

16 19. As a further part of the conspiracy, ON, and others, misled and lied to the Bank's
17 accountant, to wit, KPMG, LLP. ON, and others, also failed to disclose to the Bank's accountant facts
18 necessary to make their statements and representations complete and accurate. For example, ON, and
19 others, concealed and omitted from the Bank's records material information relating to the Bank's
20 intention to sell various loans, as well as pending loan sales.

21 20. As a further part of the conspiracy, ON, and others, caused the Bank to issue materially
22 false and misleading public statements and reports regarding its financial condition and performance in,
23 among other things, an SEC Form 10-K filed with the SEC on or about March 16, 2009.

24 21. On or about May 20, 2009, the Bank announced that the financial statements contained in
25 its March 16, 2009 SEC Form 10-K were unreliable, withdrew those financial statements, and
26 announced that it intended to restate them.

27 //

28 //

1 COUNT ONE: (18 U.S.C. § 371 – Conspiracy to Make a Materially False and Misleading Statement to
2 an Accountant)

3 22. Paragraphs 1 through 21 of this Information are re-alleged and incorporated as if fully set
4 forth here.

5 23. In or about 2009, in the Northern District of California and elsewhere, the defendant,
6 **CRAIG S. ON,**
7 and others, unlawfully, willfully, and knowingly, did conspire to commit an offense against the United
8 States, namely, make a materially false and misleading statement to an accountant, in violation of Title
9 15, United States Code, Section 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2.

10 24. In furtherance of the conspiracy, and to effect the illegal object thereof, ON committed,
11 or caused to be committed, the following overt acts, among others, in the Northern District of California
12 and elsewhere:

13 (a) ON sent a materially false and misleading email to a representative of KPMG,
14 LLP, on or about March 15, 2009;

15 (b) ON, and others, sent a materially false and misleading management representation
16 letter to KPMG, LLP, on or about March 16, 2009; and

17 (c) ON, and others, filed, or caused to be filed, an SEC Form 10-K with the Securities
18 and Exchange Commission on or about March 16, 2009 that fraudulently under-reported
19 the Bank's loan loss allowance in a material amount.

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

21 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461)

22 25. Paragraphs 1 through 24 this Information are re-alleged and incorporated as if fully set
23 forth here for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 981(a)(1)(C).

24 26. Upon a conviction for the offense alleged in Count One, the defendant,

25 **CRAIG S. ON,**
26 shall forfeit to the United States any property, real or personal, which constitutes or is derived from
27 proceeds traceable to said offense, including but not limited to a sum of money equal to the total
28 proceeds from the commission of said offense.

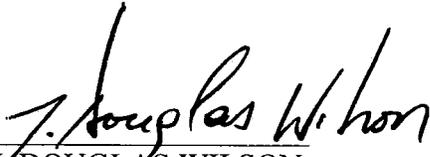
- 1 27. If, as a result of any act or omission of the defendant, any of said property
2 (a) cannot be located upon the exercise of due diligence;
3 (b) has been transferred or sold to or deposited with, a third person;
4 (c) has been placed beyond the jurisdiction of the Court;
5 (d) has been substantially diminished in value; or
6 (e) has been commingled with other property which cannot be divided without
7 difficulty;

8 any and all interest defendant has in any other property up to the value of the property described in
9 Paragraph 26, shall be forfeited to the United States pursuant to Title 18, United States Code, Section
10 981(a)(1)(C), as incorporated by Title 28, United States Code, Section 2461.

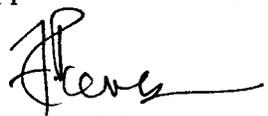
11 All in violation of Title 18, United States Code, Sections 981(a)(1)(C), 1348, 1349; Title 28,
12 United States Code, Section 2461; and Rule 32.2 of the Federal Rules of Criminal Procedure.

13 Dated: October 30, 2014

MELINDA HAAG
United States Attorney

14
15
16
17 
18 DOUGLAS WILSON
Chief, Criminal Division

19 Approved as to form:

20 
21 ADAM A. REEVES
22 ROBERT DAVID REES
23 Assistant United States Attorneys
24
25
26
27
28

United States District Court
Northern District of California

CRIMINAL COVER SHEET

FILED
2014 OCT 30 A 11:26
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
NORTHERN DISTRICT OF CALIFORNIA

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case.

Case Name:

USA v. Craig S. On

Case Number
CR 14 544

WHA

Total Number of Defendants:

1 2-7 8 or more

Is This Case Under Seal?

Yes No

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes No

Venue (Per Crim. L.R. 18-1):

SF OAK SJ EUR MON

Is any defendant charged with a death-penalty-eligible crime?

Yes No

Assigned AUSA (Lead Attorney):

Adam A. Reeves

Is this a RICO Act gang case?

Yes No

Date Submitted:

10/30/14

Comments:

Save Print Clear Form