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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **v.** **CRAIG S. LAX,** **Defendant.**	**Case No. _____________** **COMPLAINT**

Plaintiff, the United States Securities and Exchange Commission ("Commission"), 100 F Street, N.E., Washington, D.C. 20549, alleges as follows against Craig S. Lax, whose last known address is 104 North Woodland Street, Englewood, New Jersey 07631:

1. At all times relevant to this action, Craig S. Lax ("Lax") exercised direct or indirect control over G-Trade Services LLC ("G-Trade"), a U.S. broker-dealer of which he was the Chief Executive Officer ("CEO"), and ConvergEx Global Markets Limited ("CGM Limited"), a Bermuda broker-dealer. G-Trade and CGM Limited are wholly-owned subsidiaries of ConvergEx Group, LLC ("ConvergEx"), a global investment services and technology firm headquartered in New York, New York.

2. During this time, G-Trade, CGM Limited, and others violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 10b-5 thereunder by engaging in a fraudulent scheme to conceal from customers a practice of charging hidden mark-ups and

mark-downs on securities trades. The hidden charges were referred to in the scheme as "trading profits," or more commonly, as "TP," and were in addition to disclosed commissions paid by customers.

3. From at least January 2008 through August 2011 ("the Relevant Period"), with Lax's culpable participation, G-Trade and CGM Limited employees under Lax's control took steps to conceal from customers the practice of taking TP. These steps included suspending the practice of taking TP on a customer's trades when the customer was monitoring execution prices, seeking to use an algorithm and an anonymous broker code when trading in a transparent market to prevent a customer from discovering that TP had been taken on its trades, taking TP in amounts that kept the customers' prices within the high and low of the market for the day to minimize the risk of customers realizing TP had been taken, and refraining from taking TP on the trades of customers who notified employees that they may request detailed trade execution price data.

Jurisdiction and Venue

4. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

5. Venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because acts constituting violations of the law occurred in this District and the defendant can be found, is an inhabitant of, or transacts business in this District.

6. Lax directly or indirectly made use of the means or instrumentalities of interstate commerce, of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices, and courses of business alleged herein.

Defendant

7. **Craig S. Lax**, age 50, was the CEO of G-Trade Services LLC from at least October 2006 until November 2013. During this time, Lax worked at ConvergEx's headquarters in New York, New York. Lax is a resident of New Jersey.

8. Lax held Series 24 (General Securities Principal) and Series 7 (General Securities Representative) securities licenses since 1999.

Relevant Entities and Individuals

9. **G-Trade Services LLC ("G-Trade")** is a registered broker-dealer and wholly-owned subsidiary of ConvergEx. G-Trade is headquartered in New York and has been registered as a broker-dealer with the Commission since October 2006. In December 2013, G-Trade settled the Commission's claims against it for its role in the scheme described herein. *See* SEC Rel. No. 34-71128 (Dec. 18, 2013).

10. **ConvergEx Global Markets ("CGM")**, formerly known as G-Port, was comprised of a business unit of G-Trade, ConvergEx Global Markets Limited ("CGM Limited"), and traders in international locations such as Hong Kong and London.

11. **ConvergEx Global Markets Limited ("CGM Limited")** was a Bermuda broker-dealer and a wholly-owned subsidiary of ConvergEx. At all times relevant to this action, CGM Limited was regulated by the Bermuda Monetary Authority. In December 2013, CGM Limited settled the Commission's claims against it for its role in the scheme described herein (*See* SEC Rel. No. 34-71128 (Dec. 18, 2013)) and entered a guilty plea to one count of conspiracy to commit wire and securities fraud and one count of wire fraud in a related criminal action.

12. **Anthony G. Blumberg ("Blumberg")** was the CEO of ConvergEx Global Markets and CGM Limited from at least October 2006 until his discharge in October 2011.

13. **Jonathan Daspin ("Daspin")** was the global head of trading of CGM Limited in Bermuda from at least October 2006 until his discharge in 2011. In December 2013, Daspin settled the Commission's claims against him for his role in the scheme described herein (*See* SEC Rel. 34-71126 (Dec. 18, 2013)) and entered a guilty plea to one count of conspiracy to commit wire and securities fraud in a related criminal action.

The CGM Business Model

14. At all times relevant to this action, CGM and CGM Limited handled large, non-electronic orders to trade either single stocks or baskets of stocks in markets around the world, including the United States. CGM's customers included funds managed on behalf of retirement plans, universities, charities, religious organizations, and governments.

15. CGM marketed itself as a "conflict free," agency-only broker offering global execution services.

16. CGM, the business division of G-Trade in New York, and CGM Limited, its affiliated broker-dealer in Bermuda, functioned as an integrated organization with Blumberg as CEO.

17. As part of the CGM business model, customers were assigned to a "client-facing," affiliated ConvergEx broker. Sales traders at the affiliated broker received customer orders and entered certain orders into CGM's order management system, which routed orders to CGM Limited in Bermuda.

18. Once it received a customer's order, CGM Limited in Bermuda acted in a riskless principal capacity and bought or sold the security for its own account through a local broker in

the relevant market. In general, a "riskless principal" trade occurs when a broker-dealer, after receiving a customer order to buy (or sell) a security, buys (or sells) the security for its own account from (or to) another person in a contemporaneous offsetting transaction and then allocates the shares to the customer order. Routinely, if CGM Limited employees believed that they could add a mark-up or mark-down without detection by the customer, they added one to the price received from the local broker and kept the difference for CGM as TP.[1]

19. CGM Limited then delivered the execution back to the affiliated broker, which charged the customer a disclosed commission and also confirmed the trade to the customer at a price that included the undisclosed TP amount.

20. As a result, when CGM Limited took TP on a customer's trade, the price received by the customer was worse than the price that CGM Limited had received from the local broker.

21. After their trades were executed, customers on whose orders TP had been taken received information that included the amount of commission charged, but were not informed that CGM Limited had also taken a mark-up or mark-down on the price at which the local broker executed the trade.

22. Neither CGM nor CGM Limited was a market maker, and neither generally committed its own capital to facilitate customer executions nor offered customers guaranteed prices. Thus, CGM and CGM Limited assumed little, if any, market risk when handling and executing customer orders.

[1] Some customers asked for their trades to be handled on a fiduciary basis. When customers requested fiduciary treatment, CGM and CGM Limited did not take TP on those customers' trades and those customers were typically charged higher commissions.

23. The amount of TP taken on trades often was much more than the disclosed commission amount. In fact, it was not uncommon for the amount of TP taken to be several times the amount of the commission paid by the customer.

Lax's Conduct

24. Lax and others within G-Trade and CGM Limited believed that many customers were likely unaware of the fact that CGM and CGM Limited took TP on their trades. With Lax's culpable participation, from at least January 2008 through August 2011 ("the Relevant Period"), G-Trade and CGM Limited employees took steps to conceal from customers the practice of taking TP. The cost paid to execute trades is a matter of importance to reasonable investors.

Suspension of TP When Customers Requested Trading Data

25. CGM Limited typically executed large orders to buy and sell securities in smaller pieces known as "child fills," which later were aggregated for purposes of reporting a single execution price to the customer. Customers, however, sometimes asked CGM for more specific information regarding the times, prices, and quantities at which each child fill had been executed. This information was reflected in "time and sales" reports.

26. For trades on which CGM took TP, an accurate time and sales report would reveal that TP had been taken on the trades because the individual child fill execution prices would not average to the price reported to the customer.

27. Lax and others thus authorized the temporary suspension of taking TP on trades if a customer, prior to trading, requested a time and sales report.

28. On or about June 22, 2011, Daspin, the head trader at CGM Limited in Bermuda, informed Lax that he had consulted with Blumberg, CGM's CEO, regarding whether they

should consider taking TP on trades for Customer A, who had advised Blumberg and Daspin that it may request time and sales reports in the future.

29. Daspin told Lax that Blumberg had recommended that Daspin suspend taking TP for the first sizable trade for Customer A to test if Customer A would ask for a time and sales report, and if it did not, to consider taking TP on Customer A's next trade.

30. Lax told Daspin not to take TP on Customer A's trades, stating in a telephone conversation on or about June 22, 2011, "if you leave a guy's office . . . and you know, he tells you he might want time and sales, two weeks later, [Blumberg] can't be marking up the trade."

31. On or about January 31, 2011, Lax and others were informed that Blumberg had authorized and instructed traders to refrain from taking TP on trades for Customer B after it advised CGM that it had embarked on a temporary internal transaction costs study and requested time and sales data for trades executed through CGM. Blumberg informed Lax and others that CGM would be able to resume taking TP after Customer B's study was over.

32. Once Daspin and Blumberg confirmed that Customer B was no longer conducting the study and would no longer be reviewing time and sales data that could potentially reveal TP if it was taken, Daspin and Blumberg notified Lax and others of this fact and that CGM Limited traders could therefore resume taking TP on Customer B's trades.

Use of an Anonymous Algorithm in an Otherwise Transparent Market

33. Lax also authorized Daspin to use a proprietary trading algorithm to hide TP from a customer in an otherwise transparent market. In June 2011, Daspin was tasked with executing large trades in a transparent foreign market for Customer G. Daspin was concerned that he could not take TP on Customer G's trades without Customer G detecting it because broker information was publicly available for trades executed in this market.

34. In a telephone conversation, Daspin explained to Lax that he was dealing with "transparency issues," and in order to minimize the possibility of Customer G detecting TP taken on its trades, Daspin might be able to route the customer's trades through G-Trade and use G-Trade's proprietary trading algorithm to execute the trades using multiple broker codes. Using multiple broker codes would make it more difficult for Customer G to identify trades executed on its behalf in the market because Customer G's trades would be split into multiple trades executed by different brokers.

35. Daspin also told Lax that another executing broker was willing to execute the trades for free, but that he could not give the trades to just one broker, "if the price and the shape is on the screen 'cause I won't be able to mark it up." Lax responded that he understood and advised Daspin that in addition to using multiple broker codes, he also should ask G-Trade to use an anonymous broker code. Daspin added that his "priority" in executing the trade was to "hide [him]self." At the conclusion of the conversation, Lax instructed Daspin, "[s]o make—make sure they're spinning different broker codes and anonymous."

Misleading Conduct With Respect to Business Cards

36. In or about April 2011, an employee of ConvergEx's transition management business was traveling to pitch a large, prospective customer and asked to take a trader who understood international markets to the meeting. Lax recommended that Daspin travel to the meeting to solicit the customer's business. Lax, however, did not want Daspin to start the meeting by providing representatives of the prospective customer with business cards that truthfully indicated that Daspin was employed by CGM Limited in Bermuda. Revealing Daspin's employment as a trader at CGM Limited could have raised questions about why ConvergEx had a trader who was located in Bermuda.

37. As a result, Lax requested new business cards for Daspin to use during the trip that falsely indicated that Daspin was employed by ConvergEx Group in New York.

The Manner of Taking TP

38. In a telephone conversation on or about May 27, 2011, Daspin told Lax that Daspin could only occasionally take TP on trades executed in a foreign market with "a lot of transparency." Lax responded, "Right." Daspin added that it was "hard to hide."

39. On another occasion on or about January 9, 2009, a sales trader told Lax in an email that he had a new customer, but explained that he could not route the customer's trades to CGM Limited where TP could be taken because the customer "want[s] constant real time updates."

40. Lax also understood that traders took TP in an amount that would keep the customer's price within the high and low of the day. On or about June 16, 2011, Lax called Daspin to relay that an employee of ConvergEx's transition management business told Lax that CGM needed to take at least $5 million in TP on a particular customer's trades. Daspin responded, "I always try to make as much money as possible . . . But if we have one of those low, volatile days where the highs and lows are not wide . . ."

<u>Lax's Knowledge of Misleading Statements to Customers</u>

41. In an email on or about March 31, 2008, Lax told Blumberg that a trade on which CGM Limited took approximately $1.84 million in TP had been "salvaged." He added that the trade execution was 113 basis points worse than what the customer was expecting but that he thought Daspin "did well working with [the client-facing ConvergEx employee] on the story."

42. On or about July 10, 2009, a representative of Customer H emailed a document to Lax in which he stated, "I had an on site visit to CGM's office in Bermuda. I asked if they

markup there [sic] trades and was told no. . . . Later we found out that they do in fact mark up trades and we were forced to reimbursed [sic] their gains to [our] clients."

43. On another occasion on or about June 8, 2011, CGM provided Customer H a time and sales report for a trade on which CGM did not take TP. Because of technical problems, the time and sales report CGM provided to Customer E contained incorrect data even though no TP was taken on the trades. In explaining the situation to Lax in a telephone conversation, Daspin said, "I looked at the performance – the overall performance, but never the time and sales. I mean, when we don't mark-up trades, you would think that everybody would be, you know, clean."

Control by Lax Over Other Violators

44. Throughout the Relevant Period, Lax was the CEO of G-Trade, the entity of which CGM was a part. In his position as CEO, Lax exercised control, directly or indirectly, over G-Trade's operations, including the operation of CGM.

45. Lax also exercised control, directly or indirectly, over the actions described herein taken by Daspin, the head trader of CGM Limited.

46. As a result of the above, during the Relevant Period, Lax exercised control, directly or indirectly, over G-Trade and CGM Limited.

CLAIM FOR RELIEF

Section 20(a) of the Exchange Act: Controlling Person Liability

47. Paragraphs 1 through 46 are realleged and incorporated by reference herein.

48. Through the conduct described above, G-Trade and CGM Limited in connection with the purchase or sale of any security by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, directly or indirectly, knowingly or recklessly employed a device, scheme, or artifice to defraud or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(a) and(c) thereunder [17 C.F.R. § 240.10b-5(a) and (c)].

49. When G-Trade and CGM Limited violated Section 10(b) of the Exchange Act and Rule 10b-5, Lax directly or indirectly controlled G-Trade and CGM Limited. Lax was therefore a "controlling person" within the meaning of Section 20(a) of the Exchange Act [15 U.S.C. §78t(a)] with regard to G-Trade and CGM Limited.

50. As described above, Lax was a culpable participant in, and directly or indirectly induced the acts constituting, G-Trade's and CGM Limited's violations of the Exchange Act, and did not act in good faith.

51. By reason of the foregoing, Lax is jointly and severally liable with and to the same extent as G-Trade and CGM Limited for their violations of Section 10(b) of the Exchange Act and Rule 10b-5 and, unless enjoined, will again act as a "controlling person" in connection with such violations.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a judgment:

A. Permanently restraining and enjoining Lax from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

B. Ordering Lax to disgorge illegal profits he obtained as a result of his misconduct described in this Complaint, and to pay prejudgment interest thereon;

C. Imposing civil monetary penalties on Lax pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

D. Granting such equitable relief as may be appropriate or necessary for the benefit of investors pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

Dated: Washington, D.C.

February 10, 2015

Respectfully submitted,

s/ Cheryl L. Crumpton
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