

UNITED STATES OF AMERICA	:	Hon.
	:	Crim. No. 05-
v.	:	
	:	18 U.S.C. § 371; 15 U.S.C. §§ 78j(b) &
	:	78ff(a); and 17 C.F.R. § 240.10b-5
HEBERT MARIO FIGUEROA	:	

INFORMATION

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

Count 1

(Conspiracy to Commit Securities Fraud)

The Defendant

1. At all times relevant to this Information, defendant **Hebert Mario Figueroa** (a.k.a. “**Mario Figueroa**”) was a resident of Old Tappan, New Jersey, and a co-founder and director of Clover Merchant Group LTD (“CMG”) and its affiliated companies, who exercised control over Clover Merchant Group LTD and related entities.

The Co-Conspirators

- 2. At all times relevant to this Information:
 - a. “TDR,” who is named as a co-conspirator but not as a defendant herein, was a resident of West Harrison, New York, who acted as a Director and co-founder of CMG.
 - b. “TR,” who is named as a co-conspirator but not as a defendant

herein, was a resident of Hackensack, New Jersey, who acted as a Vice President and co-founder of CMG.

c. “ED,” who is named as a co-conspirator but not as a defendant herein, was a resident of North Bergen, New Jersey, who acted as General Counsel to CMG and its affiliated companies.

d. “JC,” who is named as a co-conspirator but not as a defendant herein, was a resident of Holmdel, New Jersey, who acted as a Director of Acquisitions for CMG.

e. “RM,” who is named as a co-conspirator but not as a defendant herein, was a resident of the United Kingdom, who acted as a member of the leadership team for CMG.

f. “MP,” who is named as a co-conspirator but not as a defendant herein, was a resident of New York, New York, who acted as an Executive Director of CMG.

g. “EK,” who is named as a co-conspirator but not as a defendant herein, was a resident of Morganville, New Jersey, who acted as an Executive Director of CMG.

h. “GG,” who is named as a co-conspirator but not as a defendant herein, was a resident of Jersey City, New Jersey, who acted as an Executive Director of CMG.

i. “CR,” who is named as a co-conspirator but not as a defendant herein, was a resident of Hackensack, New Jersey, who acted as an Executive Account Representative for CMG.

j. “GS,” who is named as a co-conspirator but not as a defendant

herein, was a resident of Hackensack, New Jersey, who acted as an Executive Account Representative for CMG.

The Relevant Entities

3. At all times relevant to this Information:

a. Clover Merchant Group LTD was a New Jersey-based company, with principal offices located in Fort Lee, New Jersey, which purported to be a Merchant Bank specializing in the purchase and sale of private companies. CMG controlled and was affiliated with numerous entities, including but not limited to, Clover Management Group, Inc., Clover Defense Partners, L.P., Clover JCM Defense Partners, LLC., Clover Captial Management, LLC., CMG Advisors, LLC., and Clover International Advisors (collectively referred to at times as the “Clover Entities”), all of which were controlled by **Mario Figueroa**.

b. JCM Engineering Corp. (“JCM”) was a private company based in Ontario, California that manufactured computerized precision machine components and assemblies for the defense and aerospace industries. Among other things, JCM produced components of the Tactical Tomahawk cruise missile, producing approximately 2% of the entire production value of that missile, mainly the exterior shell.

c. Clover JCM Defense Partners, LLC (“JCM Defense Partners”) was a New Jersey limited liability company that was formed by CMG, **Mario Figueroa** and his co-conspirators, in or about January 2003, purportedly to invest in JCM Engineering Corp.

THE CONSPIRACY

4. From at least in or about January 2003 through at least in or about July 2003, in the District of New Jersey and elsewhere, defendant

Hebert Mario Figueroa

did knowingly and willfully conspire and agree with TDR, TR, ED, JC, RM, MP, EK, GG, CR and GS and others, known and unknown, to commit offenses against the United States, that is, by use of the means and instrumentalities of interstate commerce, the mails, the wires, and the facilities of national securities exchanges, directly and indirectly, knowingly and willfully to use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 ("Rule 10b-5") in connection with the purchase and sale of JCM Defense Partners' securities, by (i) employing devices, schemes, and artifices to defraud holders of JCM Defense Partners' securities and other members of the investing public; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit on holders of JCM Defense Partners' securities and other members of the investing public, contrary to Title 15, United States Code, Sections 78j(b) and 78ff(a) and Rule 10b-5.

Objects of the Conspiracy

5. The primary object of the conspiracy was to disseminate materially false and misleading statements about CMG, JCM, and JCM Defense Partners through written and oral statements made to investors in order to fraudulently induce investors to purchase the securities of JCM Defense Partners.

6. It was a further object of the conspiracy for defendant **Mario Figueroa** and his co-conspirators to divert investor funds for undisclosed purposes, including but not limited to, repaying CMG investors who had previously invested in two poorly performing CMG-promoted companies, AeroPrecision Corp. and Invatech Corporation. Defendant **Mario Figueroa** and his co-conspirators in effect created what is commonly referred to as a “ponzi” scheme.

Means and Methods of the Conspiracy

7. Among the means and methods employed by defendant **Mario Figueroa** and his co-conspirators to carry out the conspiracy and effect its unlawful objects were those set forth in Paragraphs 8 through 28 below:

The CMG Boiler Room

8. By at least in or about January 2003, **Figueroa** and his co-conspirators caused CMG to hire and retain as many as 30 salesmen (“cold callers”), to make up to 200 calls a day each, to identify and solicit mostly foreign investors for investments in private companies promoted by CMG, including JCM.

9. From at least in or about January 2003 to at least in or about July 2003, **Figueroa** and his co-conspirators trained and supervised cold callers, which included providing them with so-called “sales scripts” that contained false and misleading information about CMG and JCM. **Figueroa** and his co-conspirators instructed cold callers to memorize the sales scripts and to use a nondescript variation of their names. As an inducement, cold callers were told, among other things, that if they learned the sales pitch they would become wealthy, earning “wheelbarrows full of money.”

10. **Figueroa** and his co-conspirators instructed cold callers to speak quickly and get answers to personal questions. In addition, cold callers were instructed to destroy copies of solicitation letters sent to prospective investors.

False and Misleading Statements about CMG

11. Figueroa and his co-conspirators instructed cold callers to tell prospective foreign investors that CMG was a merchant bank located in New York City, when in fact CMG was located in Fort Lee, New Jersey.

12. **Figueroa** and his co-conspirators told investors that CMG had consummated, over a four year period, four private equity deals in the defense sector, which **Figueroa** and his co-conspirators knew was not true. **Figueroa** and his co-conspirators further claimed that during the same four year period CMG provided investors with returns of 500% and 1,600%, all of which was not true.

13. **Figueroa** and his co-conspirators told prospective investors that they would earn 4 to 6 times their investment through a CMG private equity deal, which **Figueroa** and his co-conspirators knew was not true or possible.

14. In addition, **Figueroa** and his co-conspirators told investors, orally and in writing, that CMG invested its own money into the various deals it promoted, which was also untrue.

The JCM Defense Partners scheme

15. In or about January 2003, Figueroa and his co-conspirators held the first of a series of meetings wherein they discussed the raising of \$40 million from investors for investment in JCM Defense Partners.

16. In that meeting and subsequent meetings over the first few months of 2003, **Figueroa** and his co-conspirators repeatedly agreed that approximately \$10 million of the \$40 million to be raised from the JCM Defense Partners promotion would be used to “take out” or arbitrarily pay specifically targeted CMG investors who previously invested in two poorly performing CMG-promoted companies: Invatech and AeroPrecision. They also agreed to conceal these payments from investors of JCM Defense Partners. **Figueroa** and his co-conspirators agreed to label these payments to the Invatech and AeroPrecision investors as “profits,” derived from consummated Invatech and AeroPrecision deals, which again was not true.

17. **Figueroa** and his co-conspirators agreed to take out specifically targeted CMG investors for two reasons, among others: 1) to appease complaining investors of Invatech and AeroPrecision by providing them with a profit, in order to quell the investors’ persistent complaints about not getting paid a return; and 2) to induce these same investors to invest even greater amounts in JCM Defense Partners.

18. During these meetings, **Figueroa** and his co-conspirators agreed that approximately \$5 million of the \$40 million to be raised from investors would actually be used to acquire an interest in JCM.

19. **Figueroa** and his co-conspirators further agreed that the remaining \$25 million raised from the JCM Defense Partners solicitation would be secretly distributed to **Figueroa** and his co-conspirators, and used for other undisclosed purposes.

20. Further, **Figueroa** and his co-conspirators intentionally drafted various versions of the JCM Defense Partners Private Placement Memorandum that described, among other things, JCM Defense Partners' business objectives and intended use of funds, in such a manner as to make the memoranda materially false and misleading, and to omit material facts.

The JCM Defense Partners
False and Misleading Statements and Material Omissions

21. From at least in or about January 2003 to at least in or about July 2003, **Figueroa** and his co-conspirators provided investors with materially false and misleading information contained in various versions of the JCM Defense Partners Private Placement Memorandum, other solicitation documents, and in oral statements, in order to induce them to invest in JCM Defense Partners.

22. At various times during the scheme, **Figueroa** and his co-conspirators told investors, among other things, that JCM manufactured 70% of all Tactical Tomahawk cruise missiles manufactured in the defense industry. In truth, **Figueroa** and his co-conspirators knew that JCM manufactured approximately 2% of the component parts, the outer skin, of a single Tactical Tomahawk cruise missile.

23. **Figueroa** and his co-conspirators provided investors with materially false

and misleading JCM financial information, sales projections, and order backlogs, often intentionally inflating the numbers to make JCM appear more financially sound than it was.

24. **Figueroa** and his co-conspirators falsely told investors that CMG invested its own money, approximately \$4.5 million, in acquiring an interest in JCM. In truth, **Figueroa** and his co-conspirators knew that the \$4.5 million used to acquire an interest in JCM came from investors of JCM Defense Partners and that CMG never invested any of its own money.

Use of the Proceeds

25. From at least in or about January 2003 through at least in or about July 2003, **Figueroa** and his co-conspirators raised approximately \$20 million from investors in connection with the JCM Defense Partners offering.

26. At all times throughout this period, all the money raised through JCM Defense Partners was commingled into a single account at Commerce Bank in New Jersey and exclusively controlled by **Mario Figueroa**.

27. Of the amount raised, **Figueroa** and his co-conspirators used approximately \$4.5 million to purchase a 43% interest in JCM; used approximately \$4 million to pay the CMG investors of Invatech and AeroPrecision; and spent the remaining money to finance the CMG boiler room operations and on themselves, through, among other things, extraordinary commissions and lavish business trips that, at times, included the use of private jets. **Figueroa** used his share of the illicit proceeds to furnish a lavish lifestyle, including vacations, cars, jewelry, and a yacht.

Overt Acts

28. In furtherance of the conspiracy and to effect its unlawful objects, defendant **Mario Figueroa** and his co-conspirators committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

(a)-(h) On or about the dates set forth below, defendant **Mario Figueroa** and his co-conspirators caused foreign investors in JCM Defense Partners to wire-transfer funds to an account controlled by defendant **Mario Figueroa** at Commerce Bank, located in Hillsdale, New Jersey:

Overt Act	Approximate Date of Transfer	Amount
(a)	January 13, 2003	\$1,000,000.00
(b)	January 23, 2003	\$1,000,000.00
(c)	January 27, 2003	\$2,500,000.00
(d)	February 3, 2003	\$1,527,994.00
(e)	April 2, 2003	\$999,975.00
(f)	April 22, 2003	\$999,975.00
(g)	June 16, 2003	\$1,149,980.00
(h)	July 3, 2003	\$1,999,975.00

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

Count 2

(Securities Fraud)

1. The allegations set forth in Paragraphs 1 through 3 and 5 through 28 of Count 1 of this Information are hereby realleged and incorporated as though set forth in full herein.

2. From at least in or about January 2003 through at least in or about July 2003, in the District of New Jersey and elsewhere, defendant

Hebert Mario Figueroa

knowingly and willfully, by the use of means and instrumentalities of interstate commerce, the mails, the wires, and the facilities of national securities exchanges, did himself, and did aid and abet, and counsel, induce, and cause other to, directly and indirectly (a) employ devices, schemes, and artifices to defraud members of the investing public and other persons and entities, (b) make untrue statements of material facts to members of the investing public and other persons and entities and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and (c) engage in acts, practices, and courses of business which operated and would operate as a fraud and deceit on members of the investing public and other persons and entities, all as set forth in substance in Paragraphs 1 through 3 and 5 through 28 of Count 1 of this Information, in connection with the offer, purchase, and sale of securities, that is, the sale by defendant **Hebert Mario Figueroa** and his co-conspirators of the stock of JCM Defense Partners to the investing public.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 18,
United States Code, Section 2; and Title 17, Code of Federal Regulations, Section 240.10b-5.

CHRISTOPHER J. CHRISTIE
United States Attorney