MAA:IJ:LAL:SPC:KAN
F.#2006R00740

CR 06 723
GARAUFIS, J.
REYES, M.J

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

- against -

WILLIAM F. SORIN,

Defendant.

- - - - - - - - - - - - - - - - X

F E L O N Y
I N F O R M A T I O N

Cr. No. _____
(T. 18, U.S.C., §§ 371 and 3551 et seq.)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

THE UNITED STATES ATTORNEY CHARGES:

At all times relevant to this Information, unless otherwise indicated:

I. THE CORPORATION

1. Comverse Technology, Inc. ("CTI") was a New York corporation with its headquarters in Woodbury, New York.[1] Beginning in 1986, CTI was a publicly-traded corporation, the common stock of which was traded on the NASDAQ National Market System ("NASDAQ") beginning in 1993. Through Comverse Inc., a wholly-owned subsidiary, CTI was a provider of software and software systems for communication and billing services. CTI was a component stock in the S&P 500 and NASDAQ-100 indices. CTI's

[1]In 2005, CTI moved its headquarters to Manhattan, but continued to maintain offices on Long Island.

shareholders were located throughout the United States, including in the Eastern District of New York.

2. As a public company, CTI was required to comply with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public. Under the SEC's rules and regulations, CTI and its officers were required to file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) which included financial statements that accurately presented CTI's financial condition and the results of its business operations in accordance with Generally Accepted Accounting Principles ("GAAP"). CTI was also required to disseminate and file with the SEC annual proxy statements to shareholders (on Form 14-A) setting forth accurate information about matters to be brought to a vote at annual shareholder meetings.

II. THE DEFENDANT

3. SORIN was CTI's General Counsel from the company's inception.[2] SORIN was also Corporate Secretary and a Director

[2] From CTI's inception until 2003, SORIN was General Counsel of CTI, then the highest legal position within CTI. In 2003, a new General Counsel was named and SORIN was named Senior General Counsel.

of CTI. SORIN drafted and participated in drafting CTI's stock option plans and public filings, and he signed CTI's annual filings and proxy statements. From 1998 through 2002, SORIN received approximately $1 million in legal fees from CTI. SORIN is an attorney, a member of the New York bar, and a graduate of Harvard Law School.

4. As set forth below, the defendant SORIN, together with others, engaged in a scheme to backdate millions of stock options granted to himself and CTI employees to days when the stock of CTI was trading at periodic low points. The defendant reaped substantial personal gain from his fraudulent conduct.

III. THE OPTIONS BACKDATING SCHEME

A. The Process of Granting Options

5. Jacob Alexander, CTI's Chief Executive Officer ("CEO"), together with others, devised a scheme to defraud CTI, its shareholders, and the investing public by backdating CTI's option grants without disclosure to shareholders and without taking the requisite compensation expense on CTI's financial statements, as explained below. SORIN actively participated in the scheme beginning in approximately 1991 and continuing through approximately 2002.

6. An option is the right to buy a share of stock on a future date (typically at the end of a vesting period) at a set price, known as the "exercise" or "strike" price. The exercise

price is ordinarily the trading price of the stock (i.e., the fair market value) on the day that the option was granted by a corporation's board of directors or, typically, the board's compensation committee. The holder of an option makes a profit by exercising the option to buy the stock at the end of the vesting period at the locked-in exercise price, and selling the stock when it is trading at a higher price than the exercise price. Options with an exercise price equal to the current trading price of the underlying stock are commonly referred to as being "at the money"; options with an exercise price below the current trading price of the stock are "in the money"; and options with an exercise price above the current trading price of the stock are "under water." Options that are in the money have a so-called "paper profit" associated with them, meaning that the options have value based on the difference between the exercise price and the current trading price, although the holder has not yet reaped the actual profit by exercising the option and selling the stock, and may need to wait until the end of a vesting period to do so.

7. When a company grants in-the-money options, i.e., options with an exercise price below the current trading price, this event has significant accounting and disclosure consequences. One way for executives to reap the benefit of in-the-money-options while evading these accounting and disclosure

consequences is to backdate the options so as to conceal the fact that the company has granted in-the-money options.

B. The Backdating of Options

8. Backdated options are options that appear to have been granted on a certain date at the fair market value (i.e., the trading price) of the underlying stock on the date of the grant, but were actually granted on a later date. One motive for backdating is to fix a lower exercise price for the options, thereby awarding in-the-money options and inflating the gain to the holder of the options. Backdated options, therefore, are typically backdated to a date on which the stock was trading at a lower price than the price on the day of the actual grant. By fixing an earlier date as a grant date, the company makes it appear that the options were granted at fair market value - the trading price of the stock on that earlier date. In this way, the holder of the option has received in-the-money options and therefore has a head start on the spread between the exercise price and the current trading price. One motive for backdating is to evade the accounting and disclosure consequences of granting in-the-money options.

C. Accounting Consequences

9. The granting of in-the-money options has significant accounting consequences. Essentially, in-the-money options constitute compensation and therefore should be

"expensed" (i.e., deducted from income as a compensation expense). Specifically, during the relevant period, CTI followed Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), which provides that a company need not expense options granted at the money to employees or directors. This means that CTI was not required to deduct from income any compensation expense for granting options priced at the fair market value of the stock on the date of the grant. However, under APB 25, CTI was required to expense any options granted with an exercise price less than the fair market value of the underlying shares on the date of the grant (i.e., in-the-money options). Backdating options would violate this accounting rule if CTI did not expense the in-the-money option grants over the vesting period, and would cause CTI to overstate its profits.

D. Shareholder Impact and Disclosure Issues

10. The granting of in-the-money options has significant consequences for shareholders and therefore must be disclosed in the company's filings. CTI acknowledged in its proxy statements that it was required to obtain shareholder approval of its stock option plans in order to meet certain tax requirements and for NASDAQ approval of the trading of the stock underlying the incentive stock options. During the years at issue, CTI's stock option plans, as described in and attached to CTI's proxy statements and approved by shareholders, required

that incentive stock options, which qualify for certain beneficial tax treatment, be priced at the money or higher. Backdating incentive stock options to an earlier date when the stock was trading at a lower price would violate the terms of CTI's plans. Although the plans did allow CTI to grant in-the-money "nonqualified options" (which, unlike incentive stock options, were not eligible to receive the beneficial tax treatment), CTI repeatedly represented to the public that all stock options (incentive and nonqualified) were in fact granted with an exercise price equal to the fair market value of the underlying shares on the purported date of the grant.

IV. BACKDATED GRANTS

A. Backdated Company-Wide Grants

11. The defendant SORIN, Alexander, and others engaged in a scheme to backdate millions of stock options to themselves and CTI employees to days when the stock of CTI was trading at periodic low points. Between 1991 and 2002, SORIN, together with others, facilitated the backdating of every company-wide grant and certain grants of options to new employees. As one of the top ten recipients of stock options in nearly every company-wide grant, SORIN reaped substantial personal gain from his fraudulent conduct.

i. The 1998 Company-Wide Grant

12. For the year 1998, the defendant SORIN, together with Alexander and others, caused CTI to issue a company-wide option grant dated "as of" October 9, 1998. As SORIN, Alexander and others well knew, the grant did not occur on October 9, 1998. Rather, the grant occurred no earlier than October 15, 1998. On October 9, 1998, the backdated day selected for the grant, CTI's stock price was $30, the second lowest price of any day in 1998; on October 15, 1998, it was $36.50, and generally continued to climb thereafter. Thus, on October 15, 1998, the options were in the money by at least $6.50 per share.

ii. The 1999 Company-Wide Grant

13. For the year 1999, the defendant SORIN, together with Alexander and others, caused CTI to issue a company-wide option grant dated "as of" October 18, 1999. As SORIN, Alexanders and others well knew, the grant did not occur on October 18, 1999. Rather, the grant occurred no earlier than November 24, 1999. On October 18, 1999, the backdated day selected for the grant, CTI's stock was trading at $93, the lowest price since the last CTI shareholder meeting of October 9, 1999, when the shareholders approved the 1999 stock option plan. On November 24, 1999, CTI stock was trading at $128.813; thus, the options were in the money by at least $35.813 per share.

iii. The 2000 Company-Wide Grant

14. For the year 2000, the defendant SORIN, together with Alexander and others, caused CTI to issue a company-wide option grant dated "as of" November 30, 2000. As SORIN, Alexander and others well knew, the grant did not occur on November 30, 2000. Rather, the grant occurred no earlier than December 13, 2000. On November 30, 2000, the backdated day selected for the grant, CTI stock was trading at $86.19, its lowest point since CTI's annual meeting on September 14, 2000, when the shareholders approved CTI's 2000 stock option plan. The stock price on December 13, 2000, was $112.125; thus the options were in the money by approximately $26 per share.

iv. The 2001 Company-Wide Grant

15. For the year 2001, the defendant SORIN, together with Alexander and others, caused CTI to issue a company-wide option grant dated "as of" October 22, 2001. As SORIN, Alexander and others well knew, the grant did not occur on October 22, 2001. Rather, the grant occurred no earlier than November 28, 2001. CTI's closing stock price on the backdated day of October 22, 2001, was $16.05, the second lowest price of the year in 2001; the price on November 28, 2001, was $21.01. Thus, the options were in the money by approximately $5 per share.

B. Backdated Grants for New Employees

16. The defendant SORIN, Alexander and others facilitated the grant of in-the-money options to new employees, which options were backdated to days before the new employees were employed by CTI. This was improper for three reasons. First, CTI did not disclose or cause to be disclosed to the shareholders that in-the-money grants had been awarded. Second, CTI did not account for these in-the-money options or cause the in-the-money options to be accounted for correctly. Third, CTI's option plans in effect at the time did not allow the granting of options to non-employees (other than directors and, in some cases, independent contractors). Because the grants were made effective before the new employees joined the company, the grants were awarded to persons who were, as of the backdated date, non-employees of the company, in violation of the shareholder-approved stock option plans.

V. FALSE AND MISLEADING STATEMENTS IN CTI'S PUBLIC FILINGS

17. As the General Counsel, SORIN drafted (in whole or in part), approved, and signed CTI's proxy statements, stock option plans, and annual and quarterly filings.

18. SORIN, together with others, knowingly and intentionally made false statements, misrepresentations, and material omissions in CTI's proxy statements, stock option plans, and annual and quarterly filings.

19. The proxy statements (which attached the stock option plans) and annual filings were sent to CTI's shareholders by United States mail. The annual and quarterly filings of CTI and the proxy statements sent to shareholders were filed electronically with the SEC in Washington, D.C. The fiscal year for CTI ended on January 31.

A. Misrepresentations in Proxy Statements

i. The 1999 Proxy Statement and 1999 Stock Option Plan

20. On September 7, 1999, CTI filed a proxy statement for an annual shareholder meeting to be held on October 8, 1999, in Melville, New York. The matters to be brought to a vote included: (a) amending the certificate of incorporation to increase from 100 million to 300 million the aggregate number of authorized shares of CTI's common stock, and (b) adopting CTI's 1999 Stock Incentive Compensation Plan (the "1999 Plan"), which the Board of Directors had approved and recommended to shareholders.

21. As the defendant SORIN well knew and believed, the 1999 proxy statement falsely stated that incentive options under the 1999 Plan would be issued with an exercise price at the fair market value of the stock "on the grant date." Underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendant SORIN well knew and believed, the 1999 proxy statement falsely represented: "The exercise price of

the options is equal to the fair market value of the underlying shares at the date of grant." Both of these statements were false and misleading because the defendant SORIN, together with others, had engaged in a scheme to backdate these options to earlier dates when the stock was trading at a lower price, and intended to continue to backdate options under the 1999 Plan.

22. At the annual meeting on October 8, 1999, the shareholders approved the 1999 Plan. As allege above, with this new Plan in hand, in November 1999, SORIN assisted Alexander and others in causing CTI to issue a company-wide grant backdated to October 18, 1999.

ii. The 2000 Proxy Statement and 2000 Stock Option Plan

23. On July 20, 2000, CTI filed a preliminary proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New York, on September 15, 2000.[3] The matters to be brought to a vote included: (a) amending the certificate of incorporation to increase the number of authorized shares from 300 million to 600 million; and (b) adopting the 2000 Stock Incentive Compensation Plan (the "2000 Plan"), under which up to nine million shares would be newly available for the issuance of options, all of

[3] The final proxy statement was filed May 11, 2001, and contained the same representations as the preliminary statement.

which the Board of Directors had approved and recommended to shareholders.

24. As the defendant SORIN well knew and believed, the 2000 proxy statement falsely stated that incentive stock options under the 2000 Plan would be issued at the fair market value of the stock "on the grant date." Underneath a table disclosing option grants to CTI executives during the prior fiscal year ending January 31, 1999, as the defendant SORIN well knew and believed, the 2000 proxy statement falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." These statements were false and misleading because the defendant SORIN, together with others, had engaged in a scheme to backdate these options to earlier dates when the stock was trading at a lower price, and intended to continue to backdate options under the 2000 Plan.

25. At the annual meeting, the shareholders approved the 2000 Plan. As alleged above, SORIN, together with others, then engaged in a scheme to backdate a company-wide grant with a false date of November 30, 2000.

iii. <u>The 2001 Proxy Statement and 2001 Stock Option Plan</u>

26. On May 11, 2001, CTI filed a proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New York, on June 15, 2001. The matters to be brought to a vote included adopting the

2001 Stock Incentive Compensation Plan (the "2001 Plan"), under which 9.7 million shares would be newly available for the issuance of options, all of which the Board of Directors had approved and recommended to shareholders.

27. As in prior years, and as the defendant SORIN well knew and believed, the 2001 proxy statement falsely stated that incentive stock options under the 2001 Plan would be issued at the fair market value of the stock "on the grant date." In addition, underneath a table disclosing option grants to CTI executives during the prior fiscal year ending January 31, 2000, as the defendant SORIN well knew and believed, the proxy statement falsely stated: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." These statements were false and misleading because the defendant SORIN, together with others, had engaged in a scheme to backdate these options to earlier dates when the stock was trading at a lower price, and intended to continue to backdate options under the 2001 Plan.

28. At the annual meeting, the shareholders approved the 2001 Plan. As set forth above, the defendant SORIN, together with others, subsequently engaged in a scheme to backdate a company-wide grant with a false date of October 22, 2001.

iv. Special 2001 Proxy Statement and 2002 Repricing of Options

29. In 2001 and 2002, the defendant SORIN, together with others, made false statements, misrepresentations, and material omissions to CTI's shareholders in order to obtain shareholder approval for a stock option repricing plan.

30. On December 13, 2001, CTI filed a proxy statement for a special shareholder meeting to be held in Melville, New York on January 29, 2002. The purpose of the meeting was to approve the repricing of underwater options (i.e., options whose exercise price was greater than the current trading price of the stock). If approved, the options would be reissued and repriced at the fair market value of the stock no earlier than six months and one day following cancellation of the existing options.

31. In this proxy statement, as the defendant SORIN well knew and believed, CTI falsely stated: "Options granted by the Company under the Company's stock incentive compensation plans have exercise prices not less than market price of the Company's Common Stock as reported on the NASDAQ National Market System as of the respective dates of grant." Under a table disclosing options granted in the prior fiscal year ending January 31, 2001, as the defendant SORIN well knew and believed, the proxy statement, referring to the options in the table, falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of

grant." Both of these statements were false and misleading because the options granted during the fiscal year ending January 31, 2001 had been backdated to dates when the stock was trading at a lower price, and incentive stock options had been granted at less than the fair market value of the stock for several years.

32. The proxy statement represented: "The Exchange Offer is intended to realign the exercise price of previously granted options with the current trading price of the Company's Common Stock and thereby better enable the Company to motivate and retain its employees and achieve the Company's business goals." However, as SORIN and others well knew, the proxy statement failed to disclose the material fact that the starting point (i.e., the exercise price) of the underwater options was below the fair market value of the underlying stock at the time of the grant.

33. At the special shareholder meeting on January 29, 2002, the shareholders approved the repricing plan. Backdated underwater options were cancelled on June 20, 2002, and, according to a formula specified in the plan, were reissued and repriced on December 23, 2002.

B. False Statements in Annual and Quarterly Reports

34. It was a further part of the conspiracy that the defendant SORIN, together with others, caused false and misleading statements, misrepresentations, and material omissions

in the annual and quarterly reports that CTI filed with the SEC.

i. Quarterly Reports

35. During the years of the conspiracy, the defendant SORIN, together with others, caused CTI to issue quarterly filings containing financial statements which the defendant well knew and believed to be false because the defendant and others had caused CTI to fail to expense backdated options granted with an exercise price at less than the fair market value of the stock on the date of the grant. These false quarterly filings included CTI's quarterly report for the period ending October 31, 2001, filed on December 14, 2001. As General Counsel, the defendant SORIN prepared, reviewed and signed all the false quarterly reports.

ii. 2002 Annual Report and Pre-2002 Annual Reports

36. On April 30, 2002, CTI filed its annual report on Form 10-K, covering the fiscal year ending January 31, 2002. On May 29, 2002, CTI filed its amended annual report on Form 10-K/A, covering the same fiscal year. The financial statements contained the following footnote in relevant part with respect to options:

> The Company applies Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations in accounting for its option plans. Accordingly, as all options have been granted at exercise prices equal to fair market value on the date of grant, no compensation expense has been recognized by

> the Company in connection with its stock-based compensation plans.

This footnote was false because, as the defendant SORIN well knew and believed, the defendant and others had caused CTI to issue backdated options at less than the fair market value of the stock on the date of the grant, but had failed to expense the backdated, in-the-money options. As a result, the financial statements in these reports understated expense and inflated income.

37. CTI's annual reports for fiscal years ending January 31, 1999, January 31, 2000, and January 31, 2001, filed on April 26, 1999, May 1, 2000, and April 30, 2001, respectively, contained similar statements which the defendant SORIN well knew and believed to be false because the defendant, together with others, had caused CTI to fail to expense the backdated, in-the-money options in those years. As General Counsel, the defendant SORIN prepared, reviewed and signed these false annual reports.

VI. FALSE AND MISLEADING STATEMENTS TO INSTITUTIONAL INVESTORS

38. The defendant SORIN, together with others, made false and misleading statements, misrepresentations, and omissions to CTI's institutional investors, which owned a substantial percentage of CTI stock.

39. As the defendant SORIN knew, certain of these institutional investors were opposed to in-the-money options grants, and expressly demanded, in exchange for an affirmative

proxy vote sought by CTI, that CTI make a commitment that it would not issue in-the-money options. Aware of these institutional investor concerns, the defendant SORIN falsely represented, and agreed with others to falsely represent, to the institutional investors that CTI would not issue any options with an exercise price below the fair market value of the underlying stock on the date of the grant.

CONSPIRACY COUNT

40. The allegations contained in paragraphs 1 through 39 are realleged and incorporated as if fully set forth in this paragraph.

41. In or about and between January 1991 and December 2002, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant WILLIAM F. SORIN, together with others, did knowingly, willfully, and intentionally conspire to: (1) use and employ manipulative and deceptive devices and contrivances directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, in contravention of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), and directly and indirectly to (a) employ devices, schemes and artifices to defraud, (b) make untrue statements of material fact and omit to state material facts necessary in order

to make the statements made, in light of the circumstances under which they were made, not misleading, and (c) engage in acts, practices and a course of business which would and did operate as a fraud and deceit upon CTI, its shareholders, and members of the investing public, in connection with purchases and sales of the securities of CTI, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; and (2) devise a scheme and artifice to defraud CTI, its shareholders, and members of the investing public, and to obtain money and property from CTI, its shareholders, and members of the investing public by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, (a) to cause mail matter to be delivered by the United States Postal Service and commercial foreign and interstate carriers according to the directions thereon, in violation of Title 18, United States Code, Section 1341, and (b) to 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.

42. In furtherance of the conspiracy, and to effect its objectives, within the Eastern District of New York and elsewhere, the defendant WILLIAM F. SORIN and his coconspirators committed and caused to be committed the following:

OVERT ACTS

a. On or about October 15, 1998, SORIN caused a CTI employee to transmit, by fax and commercial foreign and interstate carrier, from CTI's offices in Woodbury, New York, to certain members of the CTI Board of Directors, Unanimous Written Consent Forms backdated "as of" October 9, 1998.

b. On or about November 24, 1999, SORIN caused a CTI employee to transmit, by fax and commercial foreign and interstate carrier, from CTI's offices in Woodbury, New York, to certain members of the CTI Board of Directors, Unanimous Written Consent Forms backdated "as of" October 18, 1999.

c. On or about June 11, 2001, SORIN participated in a conference call with Alexander and others in which they agreed to send a letter to an institutional investor representing that CTI would not, without prior approval of that investor, grant any options with an exercise price below the fair market value of CTI shares on the date of the grant. Shortly thereafter, SORIN drafted that letter.

d. On or about November 28, 2001, SORIN caused a CTI employee to transmit, by fax and commercial foreign and interstate carrier, from CTI's offices in Woodbury, New York, to certain members of the CTI Board of Directors, Unanimous Written Consent Forms backdated "as of" October 22, 2001.

e. In or about December 2001, SORIN prepared a CTI

proxy statement calling for a special shareholder meeting. On or about December 13, 2001, SORIN, Alexander and others caused the proxy statement to be filed electronically with the SEC and mailed via the United States Postal Service to shareholders of CTI common stock in Brooklyn, Queens, and Staten Island, New York, and elsewhere.

f. On or about January 16, 2002, SORIN, Alexander and others caused CTI's Proxy Statement, soliciting shareholder approval for the 2002 Stock Option Plan, to be delivered by the United States Postal Service to shareholders of CTI common stock in Brooklyn, Queens, and Staten Island, New York, and elsewhere.

g. On or about April 30, 2002, SORIN, Alexander and others caused to be filed electronically with the SEC in Washington, D.C., an annual report for CTI on Form 10-K, for the fiscal year ending January 31, 2002.

h. On or about May 29, 2002, SORIN, Alexander and others caused to be filed electronically with the SEC in Washington, D.C., an amended annual report for CTI on Form 10-K/A, for the fiscal year ending January 31, 2002.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F.#2006R00740
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL *Division*

THE UNITED STATES OF AMERICA

vs.

William F. Sorin,

Defendant

FELONY INFORMATION

(T. 15, U.S.C., §§ 371, and 3551 et seq.)

A true bill.

_____
Foreman

Filed in open court this _____ *day,*

of _____ *A.D. 19* _____

_____
Clerk

Bail, $ _____

AUSA ILENE JAROSLAW, (718) 254-6236