

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                           |   |   |
|---------------------------|---|---|
| UNITED STATES OF AMERICA  | ) | Criminal No. 21cr10153                  |
|                           | ) |   |
| v.                        | ) | Violation:                              |
|                           | ) |   |
| STATE STREET CORPORATION, | ) | <u>Count One</u> : Conspiracy to Commit |
|                           | ) | Wire Fraud                              |
| Defendant                 | ) | (18 U.S.C. § 1349)                      |
|                           | ) |   |
|                           | ) |   |

INFORMATION

The Acting United States Attorney charges that:

General Allegations

At times relevant to this Information:

Background

1. Defendant STATE STREET CORPORATION (“STATE STREET” or the “bank”) was a financial services company headquartered and with its principal place of business in Boston, Massachusetts. STATE STREET owned one of the world’s largest custody banks, State Street Bank and Trust Company. Its clients included corporate and public retirement plans, insurance companies, foundations, endowments and other investment pools, and registered investment companies. STATE STREET’s custody business in the United States fell within the Global Services America (“GSA”) division of the Investor Services division of State Street Bank and Trust Company.

2. Co-Conspirator-1 (“CC-1”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-1 was employed by STATE STREET in Massachusetts as a senior vice president of U.S. Investor Services (“USIS”), a division of GSA,

and a senior department head in the investor services group. CC-1 reported to the executive vice president in charge of USIS.

3. Co-Conspirator-2 (“CC-2”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-2 was employed by STATE STREET in various locations including in Massachusetts, as a senior vice president of USIS and a department head in the investor services group. CC-2 reported to CC-1.

4. Co-Conspirator-3 (“CC-3”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-3 was employed by STATE STREET in Massachusetts as a Managing Director of USIS and a department head in the investor services group. CC-3 reported to CC-1.

5. Co-Conspirator-4 (“CC-4”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-4 was employed by STATE STREET in Massachusetts as a senior vice president of USIS and a department head in the mutual fund services group. CC-4 indirectly reported to the executive vice president in charge of USIS.

6. Co-Conspirator-5 (“CC-5”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-5 was employed by STATE STREET in Massachusetts as a vice president of USIS and controller of STATE STREET’s mutual fund servicing business. CC-5 indirectly reported to the executive vice president in charge of USIS.

7. Co-Conspirator-6 (“CC-6”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-6 was employed by STATE STREET in Massachusetts as a vice president of USIS and head of a unit in the investor services group. CC-6 reported, variously, to CC-2 and CC-3.

8. Co-Conspirator-7 (“CC-7”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-7 was employed by STATE STREET in Massachusetts as a vice president of USIS and head of a unit in the mutual fund services group. CC-7 reported to CC-4.

9. Co-Conspirator-8 (“CC-8”) was an individual whose identity is known to the Acting United States Attorney. At all relevant times, CC-8 was employed by STATE STREET in Massachusetts as a vice president of USIS and manager of client relations within the investor services group. CC-8 reported to CC-6.

General Background on the Custody Business

10. As a custody bank, STATE STREET held and safeguarded its clients’ financial assets, including stocks, bonds, and currencies. In addition, STATE STREET offered its custody clients clearing, payment, settlement and record-keeping services.

11. The financial terms of STATE STREET’s relationships with its custody clients were typically documented in fee schedules. During the relevant period, those schedules provided that STATE STREET would be compensated for its services in various ways, including (a) “asset-based” fees that reflected a percentage of its clients’ assets; (b) transaction charges at specified dollar amounts (such as specified charges to transfer money by wire); and (c) “out-of-pocket” (“OOP”) expenses. STATE STREET’s Investment Manager Guide described OOP expenses as “generally understood in the securities industry to mean costs for items paid by the custodian on behalf of the investor,” which were “reimbursable to the custodian.”

12. STATE STREET’s fee schedules typically provided that customers would pay for OOP expenses, and identified the following as yielding OOP expenses: (a) interbank messages sent via the Society of Worldwide Interbank Financial Telecommunication (“SWIFT”); (b) asset

pricing and valuation services provided by third-party vendors; (c) certain specialized data feeds to funds' audit firms for purposes of required auditing assessments; (d) reports provided by auditors engaged by STATE STREET to review its internal controls relating to the processing of client transactions, the preparation of client financial statements, and other services; (e) the preparation of SEC Rule 17f-5 reports for mutual fund clients to address certain requirements for the custody of foreign assets by foreign sub-custodians; (f) archiving of client records; (g) delivery and courier services; (h) printing and copying; (i) telephone services; (j) forms and supplies; (k) issuing checks; (l) computer equipment; and (m) wire transfers.

13. For many categories of OOP expenses, STATE STREET established a billing rate per unit volume that reflected the actual costs STATE STREET incurred for those activities, which it passed on to its clients. Over time, however, as the bank's costs for services declined STATE STREET continued to charge its clients the old rates, and to represent them as OOP expenses, even though the bank was actually earning a profit from those charges. Many of STATE STREET's clients, in turn, were unaware that they were paying markups on OOP expenses because the bank's invoices typically listed only the total amount owing for OOP expenses, but did not break out amounts charged per unit or transaction.

14. SWIFT messages were secure wire communications in interstate and foreign commerce used to effectuate securities trades and related financial transactions. During the relevant period, SWIFT messages were the largest category of purported OOP expenses STATE STREET improperly charged to its custody clients.

15. Internally, STATE STREET calculated SWIFT message charges based on two components: a "unit cost" and a "message fee." The "unit cost" generally reflected what STATE STREET paid per message to the SWIFT organization to send a SWIFT message. During the

relevant time, this cost varied over time and by message type, but typically ranged between \$0.02 and \$0.15 per message unit. The “message fee” was intended to cover the overhead expenses STATE STREET incurred to send SWIFT messages, such as the cost of maintaining SWIFT-dedicated computers and telephone lines. Prior to the relevant period, STATE STREET typically charged clients a “message fee” of \$5.00 per message. STATE STREET continued to charge many clients that same amount during the relevant period, even though, as bank executives were aware, an increase in SWIFT message volume caused STATE STREET’s actual SWIFT-related overhead expenses per message to decline substantially. During the relevant period, STATE STREET’s invoices did not break out unit costs or message fees, but instead simply provided custody clients a total amount due for SWIFT-related OOP expenses.

#### The Conspiracy

16. Between in or about at least 1998 and December 2015, the defendant, STATE STREET, together with Co-Conspirators 1 through 8, and others known and unknown to the Acting United States Attorney, agreed to engage in a scheme to defraud the bank’s custody clients by marking up OOP expenses while leading clients to believe that they were pass-through charges on which the bank was not earning a profit. Through this scheme, STATE STREET ultimately defrauded its clients of more than \$290,000,000.

#### Object and Purposes of the Conspiracy

17. The object of the conspiracy was to commit wire fraud, in violation of Title 18, United States Code, Section 1343. The principal purpose of the conspiracy was to make money for STATE STREET by overcharging custody clients for OOP expenses. Another purpose of the conspiracy was to conceal the overcharges from clients and others.

Manner and Means of the Conspiracy

18. Among the manner and means by which STATE STREET, together with Co-Conspirators 1 through 8, and others known and unknown to the Acting United States Attorney, accomplished the object of the conspiracy, were the following:

a. agreeing to charge custody clients for OOP expenses pursuant to agreed-upon fee schedules that led clients to believe that the expenses would be passed through to them without a mark-up;

b. distributing fee schedules to STATE STREET employees, via wire communications in interstate and foreign commerce, that generally reflected that clients were not to be charged mark-ups on OOP expenses;

c. applying undisclosed mark-ups to OOP expenses – including, but not limited to, SWIFT message fees – notwithstanding the fee schedules and other client agreements; and

d. hiding the mark-ups from clients and others, including by not disclosing the details underlying OOP charges on invoices and by misleading clients when they inquired about what they were being charged for OOP-related activities.

Acts in Furtherance of the Conspiracy

19. On or about various dates between at least 1998 and December 2015, the defendant, STATE STREET, together with Co-Conspirators 1 through 8, and others known and unknown to the Acting United States Attorney, committed and caused to be committed the following acts, among others, in furtherance of the conspiracy:

20. Throughout the relevant period, STATE STREET executives were repeatedly made aware that the fees they were charging clients for SWIFT messages and other purported OOP expenses far exceeded the actual costs of those services to the bank. For example:

a. On or about October 26, 2004, CC-7, who was in the process of negotiating with a client, e-mailed CC-4 about SWIFT fees. CC-7 wrote of having been told that the \$5 per message SWIFT fee “is NOT the true cost. This \$5 has been around for a long while and at one time was accurate. It includes overhead, systems maintenance, etc.”

b. CC-4 responded: “Are we charging anyone the \$5 today. I’m a little concerned that in today’s environment the definition of ‘out-of-pocket’ expense should be exactly what we are paying out of pocket.”

c. CC-7 replied: “The current cost is \$1 to \$2 per message outbound (inbound is nothing). I am trying to get clients who are paying \$5 per messages. Two people in Finance have told me that there is mark up involved.”

d. Similarly, on or about December 13, 2005, in response to a question from a STATE STREET executive concerning whether to charge a client the “standard (gross-up) charge” of \$5.00 per message or “the true ‘cost’” of \$1.00 per message, CC-4 e-mailed CC-7, “How do we get our arms around what is a realistic number. If it’s costing us \$1 and we are charging \$5 my concern is that it is no longer an out-of-pocket.”

21. STATE STREET executives also discussed the fact that clients were unaware of the significant markups they were being charged on OOP expenses. As one example:

a. On or about May 11, 2007, CC-4 e-mailed an assistant vice president in STATE STREET’s accounting operations group, “The issue [is] we are charging \$5 for a SWIFT message but the cost is much less. . . . We can’t be in a position on [a client] that they discover that we are taking them to the cleaners on SWIFT charges.”

b. The assistant vice president replied: “Sometime back at the beginning of time there was some form of analysis that arrived at the \$5 per message (my guess / understanding

is that there was overhead included in this figure at the time that now should be spread over a much larger universe). Today that figure is grossly inaccurate in terms of actual costs or even any legitimately defensible ‘fully loaded cost.’ I would absolutely not charge this rate to any new clients.”

22. Notwithstanding the fact that they had been told that clients were not aware that they were being charged markups, STATE STREET executives deflected client inquiries about OOP fees, and actively misled clients about what they were being charged, while resisting efforts to reduce the charges to the actual out-of-pocket costs the bank had incurred.

Asset Management Firm-1

23. For example, in or about September 2000, STATE STREET entered into a fee schedule to provide custody services to a global asset management firm (“Asset Management Firm-1”). The fee schedule provided that STATE STREET would bill Asset Management Firm-1 monthly “for the recovery of applicable out-of-pocket expenses.” The fee schedule listed representative examples of OOP expenses, but noted that OOP expenses were “not limited to” the examples on the list.

24. Although the fee schedule did not specifically include SWIFT message charges in the list of representative OOP expenses, STATE STREET subsequently identified SWIFT message charges as OOP expenses in monthly invoices it sent to Asset Management Firm-1.

25. In or about 2003, after Asset Management Firm-1 began questioning the accuracy of the SWIFT message charges on STATE STREET’s invoices, bank executives discussed how to avoid disclosing the fact that STATE STREET was earning a significant profit on SWIFT fees, contrary to the client’s understanding. For example, on or about November 17, 2003, CC-6 e-mailed a supervisor, CC-2: “[T]he only way I can prove that the current bills are accurate is to show them the volume, the unit cost and tie that detail to the bills. The problem with this is that



once they see the unit cost, they are extremely likely to object to that charge. My feeling is that we risk all of the revenue should we do this.” CC-6 proposed reducing SWIFT message charges to Asset Management Firm-1, adding: “Obviously by doing so, we automatically loose [sic] 30% of the revenue but we do not risk the other 70%.”

26. After CC-2 responded: “[P]lease validate how much we are talking about,” CC-6 replied: “We are billing about \$1 million for swift.”

27. On or about December 4, 2003, CC-8 e-mailed CC-6 and CC-2 noting that the bank’s internal management information system did not “allocate SWIFT revenue to the OOP revenue section b/c, as we already know; it is not a legitimate OOP item as we make a nice margin on it.”

28. On or about December 10, 2003, CC-6 e-mailed CC-2 and CC-8 as follows: “My concern is that [Asset Management Firm-1] only knows the total charge for SWIFT. It was never explained to them that the fee was \$5 per message.” CC-6 proposed offering Asset Management Firm-1 a fee reduction of \$100,000 “in hopes that they will not pursue it any further,” but added, “I think we need to be prepared to go to \$300,000.”

29. CC-2 forwarded the e-mail to CC-5, adding: “Given that [Asset Management Firm-1] is all over us on SWIFT charges, from everything that I can see, it looks like we are better off giving them \$300,000 back as a reduction. More than likely, the \$700,000 we would still be charging them is far greater than the expense we are incurring.”

30. After CC-5 responded: “I agree we’re probably better with reducing the rate to back into a \$300k reduction to protect the rest,” CC-2 replied: “We will begin taking the reduction. We may have to deal with some retroactive hits, but we should try to limit these by telling them the billing was behind by a few months.” CC-2 forwarded the e-mail chain to CC-1.

31. In an internal “fee concession” memorandum, STATE STREET executives acknowledged that Asset Management Firm-1 had “questioned the validity of the OOP bills,” and that the bank could not validate the bills without disclosing “volumes and unit fees.” The memorandum noted that Asset Management Firm-1 “currently does not know the unit fee,” and that the fee concession was intended “to avoid the validation process and thus protect the majority of swift revenue.”

32. On or about December 16, 2003, CC-2 approved the reduction in SWIFT message charges.

33. On or about December 31, 2003, CC-6 e-mailed a representative of Asset Management Firm-1 that “the SWIFT billing has been resolved,” and that “[g]oing forward, you can expect a reduction of approximately 30% in the amount billed SWIFT message charges.” The e-mail did not disclose that the SWIFT message charges, even as reduced, would continue to include an undisclosed mark-up.

34. On or about March 22, 2004, CC-6 e-mailed CC-3 an internal memorandum that said Asset Management Firm-1 had requested that STATE STREET “begin providing the detail for OOP’s.” CC-6 added: “[t]his will likely be a problem for SWIFT[,]” and predicted STATE STREET’s “revenue will be at risk once we start providing this detail.”

35. On or about September 23, 2005, after a representative of Asset Management Firm-1 e-mailed CC-8 a news article about the fact that SWIFT fees were declining, CC-8 forwarded the e-mail to CC-6, who forwarded it to CC-3.

36. CC-3, in turn, forwarded the e-mail to CC-1, adding: “You just gotta laugh . . . I think [CC-8] has provided her with some reporting that will keep her at bay for now[.]”

37. During a telephone call in or about November 2005, CC-8 told representatives of Asset Management Firm-1, in substance, that SWIFT fees were comprised of message fees and unit fees. CC-8 said that message fees were comprised of programming expenses, maintenance expenses and staffing expenses required to support the SWIFT system, while unit costs represented “the full charge from SWIFT divided by the universe volume.”

38. CC-6 subsequently advised CC-3 and CC-8 that the client representatives “seemed to accept this,” but nonetheless requested “the actual calculations.” CC-6 noted: “We need to talk about this. I can not [sic] see how we can give this to them. Yet I do not see how we can’t either.”

39. Beginning in or about December 2005, STATE STREET executives shared select information on SWIFT with Asset Management Firm-1. For example, on or about December 1, 2005, CC-8 e-mailed representatives of Asset Management Firm-1 data that showed STATE STREET had been charging between \$5.00 and \$3.50 per message (depending on the type of SWIFT message) and \$0.11 per unit. This data did not disclose STATE STREET’s costs per message.

40. At or about the same time, STATE STREET executives with financial responsibilities conducted internal analyses that estimated the bank’s SWIFT costs were, all-in (including the message and unit fees) between \$.25 and \$.41 per message.

41. For example, on or about December 15, 2005, CC-5 e-mailed STATE STREET billing executives an analysis that concluded that the bank’s internal and external SWIFT costs were \$.41 per message. This analysis noted: (a) “Swift resides in OOP language of most client fee schemes” and “there has always been a gross up over the costs;” (b) “The Swift cost was last analyzed approx. 2-3 years ago. . . . At that time the unit cost for Swift was approx. \$1.00 although we were billing the majority of clients \$5.00. The decision was made . . . to continue to bill clients

as long as possible;” (c) STATE STREET had overbilled clients by more than \$6.6 million in SWIFT fees in 2005; (d) “The issue is we make money on this product, not charged at true costs, and only 4 clients [including Asset Management Firm-1] make up nearly 50% of our total SWIFT billing;” and (e) “The current per message unit cost is really \$.40 vs. a \$5.00 billing charge.” In the cover e-mail, CC-5 wrote that he needed help to “justify why we were charging [Asset Management Firm-1] such a high unit cost,” adding: “[CC-1] hopes to be able to argue this down to a fee waiver for 2006 only of swift charges,” and “the more ammo that I can give [CC-1] the better.”

42. On or about December 16, 2005, a STATE STREET executive with financial responsibilities e-mailed CC-3 an analysis with detailed data supporting the \$.41 per message cost.

43. CC-3 forwarded this analysis to CC-1, who, less than an hour later, replied attaching a new spreadsheet reflecting costs of \$.76 or \$.98 per message depending on the type of message. In fact, these higher cost figures had no support.

44. CC-3 then forwarded CC-1’s spreadsheet with the higher costs to a representative of Asset Management Firm-1.

45. On or about January 23, 2006, CC-3 e-mailed a representative of Asset Management Firm-1 an analysis to show the aggregate fees STATE STREET had charged the firm for SWIFT messages over the prior five years, along with the purported aggregate costs to the bank. The analysis indicated that the total overcharge for SWIFT messages during the prior five years was just over \$2 million.

46. On or about February 27, 2006, CC-1 received an e-mail from a representative of Asset Management Firm-1 containing an analysis the firm had conducted in which it estimated that it had been overcharged by more than \$2.8 million. The analysis indicated that, because the

firm had “never received a breakdown of past SWIFT fees,” it was “assuming STATE STREET’s breakdown is correct.” It also indicated that Asset Management Firm-1 was basing its calculation on the assumption that the cost data shared by STATE STREET executives – including the \$.76 or \$.98 per message cost plus the \$.11 cents per unit cost – was correct. In fact, as CC-1, CC-3, and other STATE STREET executives were aware, the bank’s internal analyses showed that its cost was, at most, \$.41 per message. Asset Management Firm-1’s calculation would have shown an overcharge of more than \$3.5 million had it used the \$.41 per message cost reflected in STATE STREET’s internal analysis.

47. In an email exchange two days later, CC-6 proposed to CC-1 and CC-3 that STATE STREET “hold the line” on its figure of just over \$2 million, and that it offer Asset Management Firm-1 a concession of \$87,000 per month over two years to achieve that number.

48. Ultimately, however, STATE STREET executives agreed to accept Asset Management Firm-1’s estimate of \$2.8 million in overcharges. CC-6 e-mailed a representative of Asset Management Firm-1 a proposal to allow it to “recoup” that sum by eliminating SWIFT fees altogether, and cutting trading fees in half, for a two-year period. STATE STREET further proposed that, following the two-year period, it would waive future message fees and only charge unit fees of between 9 cents and 15 cents per message, depending on the type of SWIFT message.

49. STATE STREET executives subsequently discussed how to avoid making similar concessions to other clients. For example, in or about May 2010 – after a pension fund, which was itself a client of Asset Management Firm-1, requested information about SWIFT message charges – CC-6 e-mailed CC-2 and other STATE STREET executives: “This is going to be a problem. This was a huge issue several years ago and we essentially were forced to eliminate the \$5 SWIFT charge [for Asset Management Firm-1]. They are going to insist we eliminate this charge for [the

pension fund]. . . [P]lease try to determine how much of the existing revenue is derived from the \$5 SWIFT charge. If it is significant, we have a bigger problem[.]”

50. Another STATE STREET executive replied that if the bank waived the \$5 per message charge, “we will end up slightly below breakeven.”

Asset Management Firm-2

51. As another example, in or about 2008, STATE STREET executives received inquiries from another asset management firm (“Asset Management Firm-2”) concerning escalating OOP expenses. At the time, the bank’s fee schedule with the firm noted that “billing for the recovery of the following out-of-pocket expenses will be made as of the end of each month.” The schedule listed SWIFT charges among the OOP expenses that would be invoiced monthly.

52. On or about April 22, 2008, after being told that a representative of Asset Management Firm-2 had inquired about why SWIFT message charges were “so high,” CC-7 asked a fellow STATE STREET executive: “Can we shut this off going forward without them inquiring about previous bills?”

53. In or about early 2009, after a representative of Asset Management Firm-2 requested that CC-4 investigate the high OOP expenses, CC-4 assigned the task to CC-7.

54. On or about March 31, 2009, CC-7 e-mailed a senior STATE STREET billing specialist (the “Billing Specialist”): “I think there is an issue for OOP on [Asset Management Firm 2]. I just learned we are charging them \$5 per report/transaction. . . . Very Hot!!!”

55. The Billing Specialist confirmed that STATE STREET was charging the firm \$5.00 per message and \$0.05 to \$0.12 per unit.

56. CC-7 replied the following day, “I am likely going to 25 cents . . . (down from \$5).” but asked, “What I ultimately need to know is how much this will cost us.”

57. The Billing Specialist responded that a member of STATE STREET's accounting operations team was "shocked" by the proposed reduction, because "most people reduce it to \$2 if they reduce it."

58. That same day, CC-4 forwarded CC-7 an e-mail from another STATE STREET executive concerning the "absurd fee per message (about \$5)" that STATE STREET was charging another custody client. CC-4 added: "Let's discuss. I don't think we want to do anything but we need to think about our exposure . . . and our response if they question it. We can bill SWIFT charges as an 'OOP' (I'm of the opinion that OOP means without markup)."

59. After another STATE STREET executive confirmed that the bank "tack[s] on a margin" to certain OOPs, CC-7 responded: "I knew it. Why we are marking up SWIFT charges is beyond me. I understand OOP's as pass through charges."

60. CC-7 forwarded the e-mail chain to CC-4, adding: "I'm telling you. I learn something every day. Simply not amazed at anything that goes on here any more."

61. On or about April 2, 2009, CC-7 and another STATE STREET executive received a report indicating that STATE STREET had charged Asset Management Firm-2 nearly \$600,000 in marked-up OOP expenses the prior year.

62. The STATE STREET executive e-mailed CC-7: "'Out of pocket' with 'mark up' = Big Problem. . . . [T]here is some serious monkey business going on here." CC-7 replied: "I agree. Bunch of crap. . . . This is not good. I think the true charge is a quarter per transaction. No other custodian charges for this at least not as a line item."

63. Later the same day, CC-7 e-mailed a representative of Asset Management Firm-2 to inquire whether the firm required the use of SWIFT services at all. CC-7 advised that

discontinuing the use of SWIFT messaging “would eliminate close to 90% of the OOP charges you see.”

64. On or about April 9, 2009, CC-7 instructed a STATE STREET colleague to find out whether Asset Management Firm-2 had agreed to discontinue the use of SWIFT messages because the Billing Specialist “needs to know how much to charge.” CC-7 cautioned that the firm “isn’t to know the per quote transaction.”

65. Later that day, CC-7 instructed the Billing Specialist to “go to \$1.00 for Swift.”

66. The Billing Specialist forwarded the instruction to CC-4, who approved it.

#### Other STATE STREET Custody Clients

67. Even after agreeing to lower SWIFT message charges for certain clients who questioned them – including Asset Management Firm-1 and Asset Management Firm-2 – STATE STREET executives continued to charge other clients significant undisclosed markups on SWIFT fees and other OOP expenses, resisted disclosing information about the charges when clients inquired about them, and even explored charging additional clients undisclosed markups on OOP expenses when negotiating new fee agreements.

68. For example, on or about April 12, 2009 – just three days after CC-4 approved reducing the per message SWIFT fees for Asset Management Firm-2 from \$5 to \$1, CC-4 e-mailed a STATE STREET vice president to request “a quick synopsis of what the standard charge for Swift charge ie we are charging \$5 for what, etc.”

69. The vice president, copying CC-7, replied that STATE STREET paid SWIFT 9 or 12 cents per message as a unit fee. The vice president added: “The \$5 fee represents coverage of the indirect charges for SWIFT messages. This includes the cost of SWIFT terminals, maintenance of files to SWIFT and all other overhead costs incurred in STATE STREET to ensure proper



transmission of the SWIFT messages.” The vice president noted, however, that “the true cost of these indirect charges” was only about 25 cents per message, such that the bank’s \$5 fee included a “\$4.50 markup per message.” The vice president estimated that the “annual revenue [to STATE STREET] from this markup must be in the tens \$ of millions.”

70. The next day, CC-4 e-mailed a STATE STREET executive vice president in USIS (the “EVP”) a memorandum discussing, among other issues, “Revenue Protection.” CC-4 wrote:

Clients are looking at expenses very closely. One thing that has recently [been] brought to my attention is SWIFT fees which we pass on to clients as OOP expenses. The number is well into the millions for [my own department]. I would think that our clients would think that OOP expenses are pass thru’s with maybe a bit of [a] mark-up to cover our expenses. SWIFT currently charges us either 12 cents or 5 cents [as a unit fee] depending on the message type. We charge our clients \$5.00 per message – an exorbitant mark up that will certainly piss off clients when they figure this out. . . . Regarding OOP expenses I recommend the following: We develop justification for SWIFT message charges[.] All departments review OOP expenses for propriety i.e. are we charging what we are entitled to.

71. The EVP replied: “[T]his is very helpful. Can I ask you to review on the 21st with the group? I would delete the section on OOP expenses. I would do more work on your own and maybe raise as a strategy question with a small group verbally only.”

72. CC-4 responded: “I agree with your viewpoint on OOP’s. We’ll do some more homework and you and I can discuss how you want to handle. I raised it mainly because across [USIS] the number is significant.” Neither the EVP nor CC-4 followed up on this issue.

73. As another example, on or about July 20, 2010, a STATE STREET vice president e-mailed CC-4 concerning a client who “knows the \$5 fee is outrageously high so they are kicking up a fuss.” The vice president added: “I think we stick with our plan to no longer charge and not say anything”, but “if they ask we can tell them we decided to no longer charge SWIFT fees[.]” The vice president continued: “Sorry to re-hash this but we need to be careful with this as this is not a true OOP as we have portrayed[.]”

74. CC-4 replied: “We are on the same page my brother.”

75. Similarly, on or about December 3, 2010, a client representative e-mailed STATE STREET executives to request “more detail” concerning SWIFT charges, noting that the “custody agreement simply notes SWIFT Charges would be passed through . . . but these are getting quite large . . . which has taken us by surprise.” After repeated follow-up requests over a period of years, the client representative e-mailed STATE STREET executives again on or about June 3, 2015: “We never received a satisfactory response to any of these inquiries until we had the opportunity to discuss such fees with outside firms . . . and discovered they were indeed excessive. . . . I’m sure you can understand our frustration, especially given that we have been inquiring about the accuracy of these charged since 2010 (5 ½ years).”

76. On or about January 27, 2012, CC-7 e-mailed a fellow STATE STREET executive about the possibility of increasing revenues by charging additional clients for OOP expenses. CC-7 said: “Another area to look at is Swift fees. . . . Typical charge is between 50 cents and \$1.50 per transaction and definitely adds up.”

77. The fellow executive replied: “The true cost of SWIFT is less [sic] 25 cents or less right? I don’t want to be part of charging \$1.50 or more on a cost labeled as OOP unless I am forced.”

78. On or about July 31, 2014, CC-7 advised CC-4 that lowering the \$5 per message SWIFT fee for one client would result in a “360K impact.” CC-7 recommended leaving the fee at \$5, because the client “never questioned” it.

79. CC-4 replied: “I agree . . . they are paying it, always have, never questioned it[.]”

COUNT ONE  
Conspiracy to Commit Wire Fraud  
(18 U.S.C. § 1349)

The Acting United States Attorney charges:

80. The Acting United States Attorney re-alleges and incorporates by reference paragraphs 1 to 79 of this Information.

81. From in or about at least 1998 through in or about December 2015, in the District of Massachusetts and elsewhere, the defendant,

STATE STREET CORPORATION,

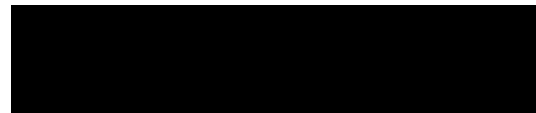
together with CC-1 through CC-8, and others known and unknown to the Acting United States Attorney, conspired to commit an offense against the United States, to wit, wire fraud, in violation of Title 18, United States Code, Section 1343, that is, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, to transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing the scheme to defraud.

All in violation of Title 18, United States Code, Section 1349.

NATHANIEL R. MENDELL  
ACTING UNITED STATES ATTORNEY

Date: May 13, 2021

By:



Justin D. O'Connell  
Assistant United States Attorney