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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.
MATTHEW C. GLESS,

Defendant.

) Criminal Case No. _____
)
) I N F O R M A T I O N
) Title 18, United States Code, Section 371 -
) Conspiracy; Title 15, United States Code,
) Sections 78j(b) and 78ff, and Title 17, Code
) of Federal Regulations, Section 240.10b-5 -
) Fraud in connection with the purchase and
) sale of securities.
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The United States Attorney charges:

I.

INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

A. THE COMPANY

1. Peregrine Systems, Inc. ("Peregrine") is a computer software company headquartered in San Diego, California. Peregrine was incorporated in California in 1981 and incorporated in Delaware in 1994. From its initial public offering ("IPO") in April 1997 until it was delisted on August 30, 2002, Peregrine was a publicly held corporation whose shares were registered securities traded under the symbol "PRGN" on the National Association of Securities Dealers Automated Quotation system ("NASDAQ"), a national securities exchange that used the

means and instrumentalities of interstate commerce and the mails.

2 2. Peregrine developed and sold business software and related services.
3 Software license fees accounted for the bulk of Peregrine's publicly reported revenues. Peregrine
4 sold its software directly through its own sales organization and indirectly through resellers such as
5 value added resellers and systems integrators. By 1999, these indirect sales (also known as
6 "reseller" or "channel" sales) became a critical component of Peregrine's revenues.

7 3. From its IPO in April 1997 through the quarter ended June 2001, Peregrine
8 reported 17 consecutive quarters of revenue growth, always meeting or beating securities analysts'
9 expectations. Peregrine's stock price soared from its April 1997 IPO price of approximately \$2.25
10 per share (split adjusted) to almost \$80 per share in March 2000. By March 2002, Peregrine had
11 issued over 192 million shares to the investing public.

12 4. In May 2002, Peregrine disclosed that its prior public reports had been
13 materially false and that it had employed a variety of devices, schemes and fraudulent accounting
14 practices over an extended period of time in order to portray itself as far more healthy and successful
15 than it actually was. After Peregrine restated its financial results and condition, its stock price
16 dropped precipitously and now trades at below \$1 per share.

17 B. The Defendant

18 5. Defendant MATTHEW C. GLESS was hired by Peregrine in April 1996 as
19 its Controller and, in October 1998, he was promoted to Chief Accounting Officer and Vice
20 President of Finance. In November 2000, defendant GLESS was named Chief Financial Officer and
21 made a Director on the Board. In May 2001, Peregrine gave defendant GLESS the additional title
22 of Executive Vice President. On May 5, 2002, defendant GLESS resigned from Peregrine. As
23 Chief Accounting Officer and Chief Financial Officer, defendant GLESS was responsible for
24 ensuring that Peregrine's financial records, reports, and public statements were accurate, truthful and
25 complied with Generally Accepted Accounting Principles ("GAAP").

26 C. PEREGRINE'S PUBLIC REPORTING

27 6. As a public company, Peregrine was required to comply with the Securities
28 Act of 1933, the Securities Exchange Act of 1934, and the regulations of the United States Securities

1 and Exchange Commission (the “SEC”). These laws and regulations are designed to protect the
2 investing public by ensuring that companies like Peregrine fairly, accurately, and timely report their
3 financial results and condition. To ensure fair, accurate and timely reports to the investing public,
4 the securities laws and SEC regulations required Peregrine and its directors and officers to, among
5 other things:

- 6 (a) make and keep books, records and accounts which in reasonable
7 detail accurately and fairly reflected Peregrine’s transactions and
8 dispositions of assets;
- 9 (b) devise and maintain a system of internal accounting controls
10 sufficient to provide reasonable assurances that the company’s
11 transactions were executed in accordance with management’s
12 policies, and recorded as necessary to permit preparation of reliable
13 financial statements in accordance with applicable accounting norms;
- 14 (c) file regular public reports including quarterly reports (on Form 10-Q)
15 and annual reports (on Form 10-K) with the SEC; and
- 16 (d) make fair and accurate representations to auditors preparing public
17 reports of Peregrine, including all material facts necessary to make
18 management representations to auditors not misleading.

19 From 1997 through April 2002, Peregrine filed regular financial reports with the SEC. During this
20 entire period, Arthur Andersen LLP, which was at the time a public accounting firm, served as the
21 outside auditors of Peregrine’s financial reports.

22 **II.**

23 **CONSPIRACY**

24 **COUNT ONE**

25 7. Paragraphs 1 through 6 of this Information are realleged and incorporated into this
26 Count as if set forth fully herein.

27 8. Beginning on a date unknown to the United States Attorney but no later than June,
28 1999, and continuing thereafter until on or about May 6, 2002, within the Southern District of

California and elsewhere, defendant MATTHEW C. GLESS did knowingly and intentionally conspire and agree with others known and unknown to the United States Attorney to commit offenses against the United States, to wit, violations of Title 18, United States Code, Sections 1001 (false statements to a federal agency), 1341 (mail fraud), 1343 (wire fraud) and 1344 (bank fraud) and violations of Title 15, United States Code, Section 78 and Title 17, Code of Federal Regulations, Section 240, specifically 18 U.S.C. §§78j(b) and 78ff, and 17 C.F.R. § 240.10b-5 (fraud in connection with the purchase and sale of securities); 15 U.S.C. §§ 78m(b) and 78ff(a) and 17 C.F.R. § 240.13b2-1 (falsification of accounting records); and, 15 U.S.C. §§78m(b)(2), 78m(b)(5) and 78ff(a), and 17 C.F.R. § 240.13b2-2 (false statements to accountants).

9. It was a part of the conspiracy that the conspirators would use a variety of schemes, devices, and artifices, make false and misleading statements, omit material facts necessary to make their statements not misleading, and engage in acts, practices and courses of business that would operate as a fraud or deceit in order to give a materially false impression of Peregrine's policies, transactions, and condition.

10. It was a further part of this conspiracy that the conspirators would induce the investing public to purchase and hold Peregrine's stock through these fraudulent means.

11. It was a further part of this conspiracy that the conspirators would induce banks and other financial institutions to purchase Peregrine's accounts receivable through these fraudulent means.

12. It was a further part of this conspiracy that the conspirators would enhance their personal reputations and enrich themselves (via compensation, bonuses and stock options) through these fraudulent means.

13. It was a further part of this conspiracy that the conspirators would use and cause to be used instrumentalities of interstate and foreign commerce, the mails, and the facilities of national security exchanges.

Methods and Means

14. In furtherance of this conspiracy, defendant MATTHEW C. GLESS and others, directly and indirectly, knowingly and willfully used the following methods and means, among

others. They:

- 2 (a) recognized and maintained as revenue, and caused to be recognized and
3 maintained as revenue, software license transactions that could not be
4 recognized as revenue under GAAP and Peregrine's stated revenue
5 recognition policy;
- 6 (b) sold and caused to be sold uncollectible, falsified and invalid accounts
7 receivable to banks to fraudulently manipulate Peregrine's Days Sales
8 Outstanding (DSO), which is a formula used by securities analysts to
9 measure the quality and quantity of a company's outstanding debts or
10 "accounts receivable" and which reflects on a company's financial condition
11 and stock value;
- 12 (c) hid and caused to be hidden in financial statements uncollectible accounts
13 receivable and invalid revenue recognition as acquisition and other one-time
14 costs to fraudulently enhance Peregrine's financial condition;
- 15 (d) made and caused to be made materially false statements to Peregrine's
16 auditors, the SEC, and the investing public, and omitted and caused to be
17 omitted material facts from statements to Peregrine's auditors, the SEC, and
18 the investing public, in order to deceive these groups regarding Peregrine's
19 policies, transactions and condition; and,
- 20 (e) created and caused to be created false records including false contracts and
21 invoices in order to continue, maintain, and conceal their deceitful schemes.

22 Overt Acts

23 15. In furtherance of this conspiracy and to effect its objects, defendant MATTHEW C.
24 GLESS and others committed the following overt acts, among others, within the Southern District
25 of California and elsewhere:

- 26 (a) In June 1999, within the Southern District of California, defendant
27 MATTHEW C. GLESS instructed certain Peregrine employees including
28 ILSE CAPPEL (charged elsewhere) to prepare false invoices corresponding

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to deals that had not yet closed, totaling several million dollars, and to sell those false invoices to banks before the deals were closed.

(b) On or about November 14, 2000, within the Southern District of California, defendant MATTHEW C. GLESS, as Peregrine's Vice President and Chief Financial Officer, signed and submitted to the SEC a Form 10-Q in which defendant GLESS made the following representation, among others, that was false and misleading, and omitted facts necessary to render it not false and misleading:

(i) Peregrine's "[r]evenues from license agreements are recognized currently, provided that all of the following conditions are met: a noncancelable license agreement has been signed, the product has been delivered, there are no material uncertainties regarding customer acceptance, collection of the resulting receivable is deemed probable and the risk of concession is deemed remote, and no other significant vendor obligations exist."

(c) On or about April 12, 2001, within the Southern District of California, defendant MATTHEW C. GLESS, as Peregrine's Chief Financial Officer, signed and submitted to the SEC a letter containing Peregrine's response to an SEC inquiry in which defendant GLESS made the following representations, among others, that were false and misleading and omitted facts necessary to render them not false and misleading:

(i) "Peregrine has demonstrated that under the revenue recognition rules of SOP 97-2, the price of their products is fixed and determinable at the date of the sale. Peregrine has a policy of deferring revenue where this requirement is called into question."

(ii) "Peregrine's policy as it pertains to payment terms is that contracts signed are non-cancelable and are generally payable under "net 30 day" terms. The payment is never contingent upon resale and any

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and all sales to indirect partners fall under the same payment structure.”

(d) On or before June 29, 2001, defendant MATTHEW C. GLESS instructed ILSE CAPPEL (charged elsewhere) to fabricate a Peregrine invoice to KPMG Consulting LLC dated June 29, 2001 for \$19,580,596.00, which was sold to Wells Fargo HSBC Trade Bank, N.A., as if it were a valid, enforceable account receivable, based on a completed transaction with KPMG Consulting, when in actual fact, it was not because Peregrine had no valid contract with KPMG Consulting at that time for that amount under those terms.

(e) On or about June 29, 2001, within the Southern District of California, Peregrine's Chief Executive Officer and Chairman of the Board of Directors and defendant MATTHEW C. GLESS, as Peregrine's Executive Vice President and Chief Financial Officer, signed and submitted to the SEC a Form 10-K in which defendant GLESS made the following representation, among others, that was false and misleading, and omitted facts necessary to render it not false and misleading:

(i) Peregrine's "[r]evenues from direct and indirect license agreements are recognized, provided that all of the following conditions are met: a noncancelable license agreement has been signed; the product has been delivered; there are no material uncertainties regarding customer acceptance; collection of the resulting receivable is deemed probable; risk of concession is deemed remote; and no other significant vendor obligations exist."

(f) On January 22, 2002, within the Southern District of California, Peregrine's Chairman and Chief Executive Officer and defendant MATTHEW C. GLESS, as Peregrine's Executive Vice President, Finance and Chief Financial Officer, signed a letter to Peregrine’s auditor, Arthur Andersen

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LLP, in which defendant GLESS made the following representations, among others, that were false and misleading, and omitted facts necessary to render them not false and misleading:

- (i) “We are not aware of any side agreements, whether written or oral, to its [Peregrine’s] software revenue arrangements.”
- (ii) “The Company has recognized revenue in accordance with the provisions of SOP 97-2 and other authoritative literature.”

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

III.

FRAUD IN THE PURCHASE AND SALE OF SECURITIES

COUNT TWO

16. Paragraphs 1 through 15 of this Information are realleged and incorporated into this Count as if set forth fully herein.

17. Beginning on a date unknown to the United States Attorney and continuing thereafter until on or about May 6, 2002, within the Southern District of California and elsewhere, the defendant MATTHEW A. GLESS knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of a national securities exchange, did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities issued by Peregrine, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud, (b) making and causing Peregrine to make untrue statements of material fact and statements that omitted facts necessary in order to make the statements true and not misleading in light of the circumstances under which they were made, and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon purchasers of Peregrine securities; all through the means described in paragraphs 7 through 15 above.

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

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DATED: April __, 2003

Respectfully submitted,

CAROL C. LAM
United States Attorney

GEORGE D. HARDY
Assistant U.S. Attorney

BARBARA L. MAJOR
Assistant U.S. Attorney