

No. \_\_\_\_\_

PVT

CR 10 00603 JW

UNITED STATES DISTRICT COURT

FILED

Unsealed  
8/13/10

~~NOT  
SEALLED BY ORDER  
OF THE COURT~~

NORTHERN DISTRICT OF CALIFORNIA

AUG 11 P 2:32

SAN JOSE DIVISION

RICHARD W. WEKING  
CLERK U.S. DISTRICT COURT

THE UNITED STATES OF AMERICA

vs.

PAUL SHIN DEVINE and ANDREW ANG,

INDICTMENT

- COUNTS ONE - FIFTEEN: 18 U.S.C. §§ 1343, 1346 - Wire Fraud;
- COUNT SIXTEEN: 18 U.S.C. §§ 1343, 1349 - Wire Fraud Conspiracy;
- COUNTS SEVENTEEN - TWENTY ONE: 18 U.S.C. §§ 1956(a)(1)(B)(I) and 2 - Money Laundering;
- COUNT TWENTY-THREE: 18 U.S.C. §§ 1957 and 2 - Monetary Transactions with Criminally Derived Property;

A true bill.

*Jim Boman*

Foreperson

Filed in open court this 11th day of August

A.D. 2010

Unsealed 8/13/10

Sealed

*Daricea Humbell*

United States Magistrate Judge

Bail. \$

No Bail

Judgment NO	CSA's INITIALS
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DISTRICT COURT CRIMINAL CASE PROCESSING	

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JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney

FILED  
2010 AUG 11 P 2:53  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT

~~SEALED BY ORDER  
OF THE COURT~~  
*Unsealed  
8/13/10*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JW  
PVT

UNITED STATES OF AMERICA, **CR 10** No. **00 603**

Plaintiff,

v.

PAUL SHIN DEVINE and  
ANDREW ANG,

Defendants.

UNDER SEAL

VIOLATIONS: 18 U.S.C. §§ 1343, 1346  
– Wire Fraud; 18 U.S.C. § 1349 – Wire  
Fraud Conspiracy; 18 U.S.C. §  
1956(a)(1)(B)(I) – Money Laundering;  
18 U.S.C. § 1957 – Monetary  
Transactions in Criminally Derived  
Property; 18 U.S.C. § 2 – Aiding and  
Abetting; 18 U.S.C. §§ 981(a)(1)(C),  
982(a)(1) – Criminal Forfeiture.

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTION

At all times relevant to this Indictment:

1. Defendant PAUL SHIN DEVINE (“DEVINE”) was an individual living in  
Sunnyvale, California.

1           2.     Defendant ANDREW ANG (“ANG”) was an individual living in the  
2 Republic of Singapore (“Singapore”).

3           3.     CPK Engineering was a California corporation registered with the  
4 California Secretary of State in January 2010 and controlled by DEVINE.

5           4.     Apple, Inc., (“Apple”) was a company headquartered in Cupertino,  
6 California. Devine began working for Apple in approximately 2005 as a Global Supply  
7 Manager (“GSM”).

8           5.     In his role as Apple GSM, DEVINE had access to confidential company  
9 information, including Apple product forecasts and product development plans (known as  
10 “roadmaps”), pricing targets, and product specifications. DEVINE also had access to  
11 confidential information shared with Apple by third parties.

12          6.     DEVINE was responsible for selecting suppliers of enclosure materials for  
13 headsets designed for Apple’s iPhone and iPod products. It was part of DEVINE’s job to  
14 communicate directly with suppliers that manufacture the parts and to deal indirectly with  
15 companies that assemble the headsets using parts manufactured by the suppliers.

16          7.     The suppliers and assemblers were located in various countries in Asia,  
17 including the People’s Republic of China (“China”), the Republic of Korea (“South  
18 Korea”), Taiwan, and Singapore.

19           a.     Company A was based in South Korea and assembled headsets for  
20 Apple’s iPhone and iPod products. Many of the suppliers that DEVINE worked with  
21 provided headset parts to Company A for assembly.

22           b.     Company B was headquartered in Singapore and manufactured,  
23 among other things, parts for Apple headsets. ANG was an employee of Company B.  
24 DEVINE worked directly with Company B in his capacity as GSM at Apple.

25           c.     Company C was a group of related businesses headquartered in  
26 Singapore. Company C began supplying parts for Apple iPods in December 2007. ANG

1 acted as an agent on behalf of Company C in obtaining information from DEVINE.

2 DEVINE worked directly with Company C in his capacity as GSM at Apple.

3 d. Company D was based in China and did molding for Apple iPod  
4 accessories. DEVINE worked directly with Company D in his capacity as GSM at Apple.

5 e. Company E, based in Singapore, manufactured parts for Apple  
6 products such as desktop computers. In 2008 Company E was trying to win business  
7 supplying other Apple parts, such as iPod and iPhone parts. ANG acted as an agent on  
8 behalf of Company E in obtaining information from DEVINE.

9 f. Company F, based in Taiwan, manufactured parts for Apple  
10 headsets. DEVINE worked directly with Company F in his capacity as GSM at Apple.

11 THE SCHEME TO DEFRAUD

12 8. Beginning at a time unknown to the grand jury, but no later than in or about  
13 February 2007, and continuing through approximately August 2010, the defendants,

14 PAUL SHIN DEVINE  
15 and  
16 ANDREW ANG,

17 did knowingly and with the intent to defraud, devise and intend to devise a scheme and  
18 artifice to defraud as to a material matter, and to obtain money and property by means of  
19 materially false and fraudulent pretenses, representations, promises, and omissions, and to  
20 deprive Apple of its intangible right to DEVINE's honest services.

21 9. The gist of the scheme was that DEVINE used his position at Apple to  
22 obtain confidential Apple information, which he then transmitted to suppliers and  
23 manufacturers of Apple parts, including ANG. In return, the suppliers and manufacturers  
24 agreed to pay DEVINE kickbacks, including payments determined as a percentage of the  
25 business they did with Apple. DEVINE shared a portion of those kickbacks with ANG.  
26 This scheme deprived Apple of the following: (a) its tangible property right in the  
27 confidentiality of its information; (b) its money and property by enabling the suppliers

1 and manufacturers to, among other things, negotiate more favorable contracts with Apple  
2 than they would have been able to obtain without the confidential information; and (c) its  
3 intangible right to DEVINE's honest services.

4 10. DEVINE directed suppliers and manufacturers to pay kickbacks via wire  
5 transfer to a bank account in his wife's name, opened for the purpose of receiving the  
6 proceeds of the scheme. DEVINE also opened bank accounts in several countries in Asia,  
7 including bank accounts in his wife's name, to which he directed suppliers to wire  
8 kickback payments.

9 11. It was further part of the scheme that DEVINE received kickback payments  
10 directly from suppliers and agents of suppliers while he traveled in Asia on behalf of  
11 Apple.

12 12. It was further part of the scheme that DEVINE registered CPK Engineering  
13 Corporation with the California Secretary of State and opened bank accounts in the  
14 business name for the purpose of receiving kickback payments while disguising the  
15 source and nature of the payments. DEVINE then caused proceeds of the fraudulent  
16 scheme to be transferred to personal accounts from the CPK Engineering account.

17 13. It was further part of the scheme that DEVINE sought to prevent the  
18 discovery of his kickback scheme by using certain code words that would not attract  
19 attention if seen by Apple employees. For example, DEVINE used the code word  
20 "sample" to represent a kickback payment, particularly in correspondence with ANG.

21 14. As part of the scheme to defraud Apple, DEVINE engaged in certain  
22 conduct and made certain material false representations, promises, and omissions,  
23 including, but not limited to, the following:

24 a. DEVINE represented to Apple that he would maintain the  
25 confidentiality of Apple's information and of the information shared with Apple by  
26 third parties.



1 to defraud Apple of its intangible right to DEVINE's honest services and to obtain money  
2 and property by means of materially false and fraudulent pretenses, representations,  
3 promises, and material omissions, defendants,

4  
5 PAUL SHIN DEVINE  
6 and  
7 ANDREW ANG,

8 did knowingly transmit and cause to be transmitted by means of wire, radio, and  
9 television communication in interstate and foreign commerce the following writings,  
10 signs, signals, pictures, and sounds, each communication being a separate count of this  
11 indictment:

Count	Approximate Date of Wire	Description of Wire
One	February 28, 2008	Email from DEVINE to ANG, giving Apple's confidential internal price target and recommending a higher target price for Company C to propose.
Two	April 9, 2009	Email from DEVINE to ANG and Company E attaching a confidential drawing and pricing information submitted to Apple by a competitor of Company E.

16 All in violation of Title 18, United States Code, Sections 1343 and 1346.

17  
18 COUNTS THREE THROUGH FIFTEEN: (18 U.S.C. §§ 1343 and 1346 – Wire Fraud)

19 20. The factual allegations at Paragraphs One through Seventeen are realleged  
20 as if set forth fully herein.

21 21. On or about the dates set forth in the separate counts below, in the Northern  
22 District of California and elsewhere, for the purpose of executing the scheme and artifice  
23 to defraud Apple of its intangible right to DEVINE's honest services and to obtain money  
24 and property by means of materially false and fraudulent pretenses, representations,  
25 promises, and material omissions, defendant,  
26

1 PAUL SHIN DEVINE,

2 did knowingly transmit and cause to be transmitted by means of wire, radio, and  
3 television communication in interstate and foreign commerce the following writings,  
4 signs, signals, pictures, and sounds, each communication being a separate count of this  
5 indictment:

6

Count	Approximate Date of Wire	Description of Wire
7 Three	February 15, 2007	Email from Company A attaching final draft of "Consulting Services" contract between DEVINE and Company A, in which DEVINE agrees to share confidential Apple information in exchange for \$6,000 per month payment.
8 Four	March 25, 2007	Email from DEVINE to Company B attaching confidential pricing proposal for parts and tooling for the iPod Touch, submitted to Apple by one of Company B's competitor's.
9 Five	March 23, 2008	Email from DEVINE to Company A attaching Apple's confidential projected quarterly sales for several existing and new iPod and iPhone models.
10 Six	April 2, 2008	Wire Transfer for \$6,000 from Company A to Center Bank account ending in 0232.
11 Seven	February 2, 2009	Email from DEVINE to Company A attaching Apple's confidential actual and projected volume and revenue as well as Apple's unit cost for iPods and iPhones.
12 Eight	March 2, 2009	Email from DEVINE to Company D attaching confidential designs submitted to Apple by a competitor of Company D.
13 Nine	March 9, 2009	Email from Company D to DEVINE stating that kickback payment had been made in four installments.
14 Ten	May 11, 2009	Email from DEVINE to Company B proposing kickback payment schedule.
15 Eleven	July 29, 2009	Email from DEVINE to Company B attaching confidential per-part pricing for Company B's competitors
16 Twelve	March 5, 2010	Wire Transfer for \$129,970 from Company C to J.P. Morgan Chase account ending in 3695.
17 Thirteen	April 22, 2010	Wire Transfer for \$57,758 from Company E to J.P. Morgan Chase account ending in 3695.

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1	Fourteen	April 15, 2010	Wire Transfer for \$54,292 from Company F to J.P. Morgan Chase account ending in 3695.
2	Fifteen	May 11, 2010	Email from DEVINE to Company F attaching a confidential pricing discussion between another Apple employee and a competitor of Company F.
3			
4			

5 All in violation of Title 18, United States Code, Sections 1343 and 1346.

6  
7 COUNT SIXTEEN: (18 U.S.C. §§ 1343 and 1349 – Wire Fraud Conspiracy)

8 22. The factual allegations contained in Paragraphs One through Twenty-One  
9 are realleged and incorporated herein.

10 23. Beginning at a time unknown to the grand jury, and continuing through  
11 approximately August 2010, in the Northern District of California, and elsewhere, the  
12 defendants,

13  
14 PAUL SHIN DEVINE  
15 and  
16 ANDREW ANG,

17 did knowingly and willfully conspire and agree with each other and with other persons  
18 known and unknown to the grand jury to willfully commit wire fraud, in violation of Title  
19 18, United States Code, Section 1343.

20 MANNER AND MEANS OF THE CONSPIRACY

21 24. It was part of the conspiracy that DEVINE sent ANG Apple confidential  
22 information via email for the benefit of Companies B, C, and E.

23 25. It was further part of the conspiracy that ANG and DEVINE shared  
24 kickback payments and corresponded regularly by email regarding the division of those  
25 payments.

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

27 //

1 COUNTS SEVENTEEN THROUGH TWENTY-TWO: (18 U.S.C. §§ 1956(a)(1)(B)(i)  
2 and 2 – Money Laundering)

3 26. The factual allegations contained in Paragraphs One through Twenty-One  
4 are realleged and incorporated herein.

5 27. On or about the dates set forth below, in the Northern District of California  
6 and elsewhere, defendant,

7 PAUL SHIN DEVINE,

8 did knowingly conduct and attempt to conduct a financial transaction affecting interstate  
9 and foreign commerce, to wit, the transfer of funds, which involved the proceeds of a  
10 specified unlawful activity, that is Wire Fraud (18 U.S.C. § 1343), knowing that the  
11 transaction was designed in whole and in part to conceal and disguise, the nature,  
12 location, source, ownership, and control of the proceeds of said specified unlawful  
13 activity and that while conducting and attempting to conduct such financial transaction  
14 knew that the property involved in the financial transaction represented the proceeds of  
15 some form of unlawful activity:

Count	Approximate Date	Description of Transaction
Seventeen	March 16, 2010	Transfer of \$9,500.49 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.
Eighteen	March 16, 2010	Transfer of \$7,727.22 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.
Nineteen	April 16, 2010	Transfer of \$9,500.49 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.
Twenty	April 16, 2010	Transfer of \$7,727.22 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.
Twenty-One	May 13, 2010	Transfer of \$9,500.49 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Twenty- Two	May 13, 2010	Transfer of \$7,727.22 from J.P. Morgan Chase account ending in 3695 to J.P. Morgan Chase account ending in 9133.
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All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

COUNT TWENTY-THREE: (18 U.S.C. §§ 1957 and 2 – Monetary Transactions with Criminally Derived Property)

28. The factual allegations contained in Paragraphs One through Twenty-One are realleged and incorporated herein.

29. On or about May 18, 2010, in the Northern District of California and elsewhere, defendant,

PAUL SHIN DEVINE,

did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, transfer of funds in the amount of \$536,747.88 from JP Morgan Chase Bank account ending in 3695 to account ending in 3889, such property having been derived from a specified unlawful activity, that is, Wire Fraud (18 U.S.C. § 1343), all in violation of Title 18, United States Code, Sections 1957 and 2.

CRIMINAL FORFEITURE ALLEGATION NUMBER ONE

30. The factual allegations contained in Counts One through Twenty-Three are hereby realleged for the purpose of alleging forfeiture to the United States of America pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

31. Upon conviction of any of the offenses in violation of Title 18, United

1 States Code, Sections 1343 or 1349 set forth in Counts One through Sixteen of this  
2 Indictment, or any of them, the defendants,

3  
4 PAUL SHIN DEVINE  
5 and  
6 ANDREW ANG,

7 shall forfeit to the United States of America, pursuant to Title 18, United States Code,  
8 Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real  
9 or personal, which constitutes or is derived from proceeds traceable to the offenses,  
10 including but not limited to the sum of money equal to the total amount of proceeds  
11 defendant obtained or derived from, directly or indirectly, from the violation.

12 32. If any of the property described above, as a result of any act or omission  
13 of the defendant:

- 14 a. cannot be located upon the exercise of due diligence;
- 15 b. has been transferred or sold to, or deposited with, a third party;
- 16 c. has been placed beyond the jurisdiction of the court;
- 17 d. has been substantially diminished in value; or
- 18 e. has been commingled with other property which cannot be divided

19 without difficulty,

20 the United States of America shall be entitled to forfeiture of substitute property pursuant  
21 to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States  
22 Code, Section 2461(c), all pursuant to Title 18 United States Code, Section 981(a)(1)(C)  
23 and Title 28 United States Code, Section 2461(c).

24 CRIMINAL FORFEITURE ALLEGATION NUMBER TWO

25 33. The factual allegations contained in Counts One through Twenty-Three of  
26 this Indictment are hereby realleged and incorporated by reference for the purpose of  
27 alleging forfeitures pursuant to Title 18, United States Code, Sections 982(a)(1).

28 INDICTMENT  
U.S. v. DEVINE, ET. AL.



1 Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

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4 DATED:

8-11-10

A TRUE BILL.

  
FOREPERSON

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JOSEPH P. RUSSONIELLO  
United States Attorney

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MATTHEW A. PARRELLA  
Chief, CHIP Unit

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(Approved as to form:

  
AUSA MICHELLE J. KANE

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INDICTMENT  
U.S. V. DEVINE, ET. AL.