

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	:
	:	<u>INDICTMENT</u>
- v. -	:	
	:	03 Cr.
FRANK QUATTRONE,	:	
	:	
Defendant.	:	
	:	
- - - - - x		

COUNT ONE

(Obstruction of Justice)

The Grand Jury charges:

The Relevant Parties And Entities

1. At all times relevant to this Indictment, a federal Grand Jury duly empaneled on or about February 14, 2000 (the "Grand Jury") was sitting in the Southern District of New York.

2. At all times relevant to this Indictment, the United States Securities and Exchange Commission (the "SEC") was an independent agency of the United States. The SEC was responsible for, among other things, the administration and enforcement of the federal securities laws and regulations. The SEC's Office of Compliance Inspections and Examinations, among other things, conducted examinations of the books and records of securities broker-dealers that were registered with the SEC, pursuant to Section 15 of the Securities Exchange Act

of 1934 (the "Securities Exchange Act"). The SEC's Division of Enforcement, among other things, investigated possible violations of the federal securities laws and regulations and brought administrative and civil actions to enforce those laws and regulations.

3. At all times relevant to this Indictment, NASD was a national securities association registered with the SEC, pursuant to Section 15A of the Securities Exchange Act. As a self-regulatory organization within the meaning of Section 19 of the Securities Exchange Act, NASD promulgated rules governing the conduct of its member firms and their officers and employees, conducted investigations of possible violations of those rules and of the federal securities laws and regulations, and brought enforcement actions concerning such violations. NASD punished violations of its rules by imposing sanctions on member firms and their officers and employees, including censures, fines, and suspensions, bars, and expulsions from membership.

4. At all times relevant to this Indictment, Credit Suisse First Boston Corporation ("CSFB") was a global investment banking firm with its headquarters in New York, New York. CSFB's businesses included underwriting securities, selling and trading securities, and providing investment

banking, financial advisory, investment research, correspondent brokerage, and asset management services. CSFB was registered with the SEC as a securities broker-dealer, pursuant to Section 15 of the Securities Exchange Act, and was a member of NASD.

5. At all times relevant to this Indictment, CSFB's Global Technology Group (the "Technology Group") was a group within CSFB consisting of several hundred investment bankers, research analysts, traders, and administrative personnel. The Technology Group provided various financial services primarily to companies in technology-related industries and executives of such companies. The services provided by the Technology Group included underwriting securities, providing investment banking and other financial advisory services, conducting and distributing investment research, selling and trading securities, and managing assets for clients.

6. At all times relevant to this Indictment, FRANK QUATTRONE, the defendant, was a senior officer of CSFB and Head of the Technology Group. QUATTRONE directed the affairs of the Technology Group, including by hiring and supervising its officers and employees and determining their compensation. QUATTRONE was licensed by NASD as a General Securities Representative and General Securities Principal.

The Technology Group's Role In Initial Public Offerings

7. During 1999 and 2000, CSFB was one of the world's leading underwriters of initial public offerings of securities issued by technology companies (collectively, the "IPOs"). FRANK QUATTRONE, the defendant, and other members of the Technology Group provided a wide variety of services in connection with the IPOs, including the following: soliciting underwriting business from issuing companies; negotiating the terms of CSFB's underwriting relationship with issuing companies, including the compensation that would be paid to CSFB; conducting "due diligence" of the issuing companies; valuing the issuing companies; assisting in marketing the IPO securities to potential investors; assisting in determining the price at which the IPO securities would be offered for sale; and assisting in allocating shares of the IPOs among investors.

8. In providing services in connection with the IPOs, FRANK QUATTRONE, the defendant, and other members of the Technology Group created a wide variety of documents relating to the IPOs, including documents in both hard-copy and electronic form.

The CSFB Document Retention Policy

9. At all times relevant to this Indictment, CSFB maintained a so-called "document retention policy" governing the retention and destruction of documents created by its employees in the course of CSFB's various business activities.

The details of the CSFB document retention policy were modified from time-to-time, and FRANK QUATTRONE, the defendant, and other CSFB employees received periodic training regarding the document retention policy, and the policy was available to CSFB's officers and employees, including QUATTRONE, on an internal company computer network.

10. With respect to public securities offerings, including the IPOs, the CSFB document retention policy provided that CSFB officers and employees were to retain only limited categories of final versions of documents and were to destroy all other documents, including drafts. The policy in effect during December 2000 stated, in relevant part:

For any securities offering, the Designated Member [of the underwriting team] should create a transaction file consisting of (i) all filings made with the SEC in connection with an SEC registered offering . . . , (ii) the original executed underwriting or placement agent agreements, (iii) the

original executed comfort letters from accountants, (iv) the original executed opinions of counsel and (v) a completed document checklist (see Exhibit B hereto).

In order to avoid confusion and ensure greater compliance with these policies, no file categories other than those set forth in Exhibit B may be created in connection with any CSFB managed securities offering without the approval of your team leader and a lawyer in the [Investment Banking Division] Legal and Compliance Department or the [Central Documentation Group] Manager.

11. CSFB's document retention policy provided that, upon CSFB's receipt of a subpoena relating to a securities offering, or the actual or likely commencement of litigation relating to such an offering, compliance with the document retention policy was to be suspended, and no documents relating to the securities offering could be destroyed. The policy in effect during December 2000 stated, in relevant part:

[N]o documents related to a transaction may be destroyed if (i) CSFB has been made a party to litigation involving such transaction or has received a subpoena which calls for the production of such documents or (ii) it is reasonably likely that litigation may be commenced in connection with such transaction or any matter relating to CSFB's involvement therein.

The Obstruction And Tampering Scheme

12. As described more fully below, during 2000, CSFB became the subject of regulatory and law enforcement investigations of its practices in allocating to investors shares of the IPOs. Thereafter, FRANK QUATTRONE, the defendant, acting with the intent to obstruct the investigations by the SEC and the Grand Jury and to impair the integrity and availability of evidence related to those investigations, directed, and caused a subordinate to direct, the destruction of documents related to the IPOs. At the time that QUATTRONE directed, and caused a subordinate to direct, the destruction of evidence related to the IPOs, he knew of the existence and nature of the regulatory and law enforcement investigations and knew that CSFB had received subpoenas that required the production of documents relating to the IPOs.

The Investigations

13. In or about May 2000, NASD began an investigation of CSFB's practices in allocating shares in certain of the IPOs. The NASD investigation focused, in part, upon CSFB's practice of allocating shares of IPOs to certain clients who paid CSFB exorbitant commissions on other securities trades.

14. From in or about May 2000 through at least in or about December 2000, NASD made various requests to CSFB to produce documents relating to its allocation of shares in the IPO of VA Linux Systems, Inc. ("VA Linux"). As a member of NASD, CSFB was required to comply with requests for the production of documents.

15. On or about June 2, 2000, CSFB's Legal and Compliance Department ("LCD") suspended compliance with CSFB's document retention policy with respect to the VA Linux IPO. LCD advised various CSFB officers and employees, including FRANK QUATTRONE, the defendant, of this suspension through an email that stated, in relevant part:

VA Linux Systems, Inc. ("LINUX") 12/9/99 IPO
- Do Not Destroy Any Documents

Please be advised that the Legal Department
is in receipt of an inquiry from the
Enforcement Department of NASD Regulation

in connection with the above-referenced matters. The Legal Department has retained [Lawyer] of [Law Firm] to assist in CSFBC's response to the NASD. At this time, no documents of any kind (including e-mails, computer files, etc.) can be destroyed or altered. Everything responsive must be preserved for review by CSFBC's outside counsel.

16. On or about June 5, 2000, LCD advised FRANK QUATTRONE, the defendant, of the nature of the NASD investigation, and instructed him not to destroy any documents relating to the VA Linux IPO. An email sent by LCD to QUATTRONE stated, in relevant part:

The VA Linux Systems inquiry from the NASD seems to direct its inquiry toward the allocation process. The request is extremely broad and requires production of all documents including e-mails and voice-mails relating to the allocation process. Please do not destroy any files related to the IPO. We will be in touch with your

group shortly regarding the collection of responsive information.

17. On or about June 7, 2000, LCD directed FRANK QUATTRONE, the defendant, and others, to collect and produce to LCD documents in his possession relating to the VA Linux IPO. An email sent to QUATTRONE stated, in relevant part:

As you are aware, CSFB must provide to our outside counsel ... all documents responsive to the NASD inquiry in the VA Linux Systems, Inc. ("LINUX") IPO on 12/9/99 as soon as possible.

You have been identified as an employee with knowledge and/or documents of this deal. If you have not already done so, please gather responsive documents (this includes computer files or e-mails) from the time period June 1, 1999 through May 16, 2000 and make arrangements with your staff for those documents to be brought to me by Monday June 12, 2000

18. On or about June 29, 2000, LCD directed FRANK QUATTRONE, the defendant, to confirm that he had "conducted a diligent and comprehensive search of all of the documents in [his] possession, custody or control of any documents related

to the VA Linux IPO and allocation process, and that [he] had turned over any such documents to" LCD.

19. In or about July 2000, the SEC's Office of Compliance Inspections and Examinations began an examination of CSFB's equity underwriting process. The examination focused on a broad array of issues relating to CSFB's equity underwriting process and required CSFB to make available for inspection a wide variety of documents relating to that process.

20. On or about July 10, 2000, LCD advised FRANK QUATTRONE, the defendant, of the existence and nature of the SEC examination, including that the SEC required the production of documents relating to services provided by the Technology Group. An email sent by LCD to QUATTRONE stated, in relevant part:

We received notice today that the SEC will be conducting an examination of CSFB's Equity Underwriting Process beginning Friday, July 14, 2000.

They have asked us to produce the following documents in their initial request:

A list of all equity underwritings from 1/1/99-6/30/00 in which CSFB was lead manager, co-manager, or syndicate member in excess of 10% of the total offering. For

each underwriting, the offering and first day closing prices. A schedule outlining CSFB's commission and markup-markdown charges for the various products traded by the firm, for both retail and institutional clients. CSFB's written supervisory procedures regarding the equity underwriting process, including, but not limited to, the engagement of the client, the pricing of the issue, and the allocation process. CSFB's operational procedures regarding the equity underwriting process, including, but not limited to, the engagement of the client, the pricing of the issue, and the allocation process.

21. In or about September 2000, the SEC's Office of Compliance Inspections and Examinations referred its examination of CSFB's equity underwriting process to the SEC's Division of Enforcement for further investigation. Like the NASD's investigation, the SEC's investigation focused, in part, upon CSFB's practice of allocating shares of IPOs to certain

clients who paid CSFB exorbitant commissions on other securities trades.

22. On or about September 20, 2000, the SEC sent to CSFB a written request for the production of documents. The request sought a wide variety of documents relating to all IPOs for which CSFB served as adviser or underwriter during the period June 1, 1999 through September 20, 2000, including the following:

- a. "All documents relating to representations made by CSFB to the issuers of IPOs";
- b. "All documents relating to CSFB's internal sales materials for all IPOs";
- c. "All closing binders and documents relating to closing binders for all IPOs"; and
- d. All documents "sufficient to show communications involving CSFB employees pertaining to or relating to all IPOs," including emails involving the Technology Group.

23. On or about September 20, 2000, CSFB's Director of Compliance advised FRANK QUATTRONE, the defendant, and others, that the SEC's examination of CSFB's IPO allocation process had been referred to the SEC's Division of Enforcement.

An email sent by the Director of Compliance to QUATTRONE stated, in relevant part:

We have been informed today that the SEC's examination of our IPO allocation process has been referred to the SEC's Division of Enforcement. We also understand that the SEC has contacted certain customers of the Firm in conjunction with this investigation.

You may be contacted by your customers regarding this matter. Please refer the call to one of the LCD persons listed below and do not discuss the substance of this inquiry with your customers or forward this email outside the Firm.

24. On or about September 20, 2000, FRANK QUATTRONE, the defendant, requested permission from CSFB's General Counsel for the Americas (the "General Counsel/Americas") to share news of the referral to the SEC's Division of Enforcement with a subordinate who was in charge of the Technology Private Client Services Group (the "Tech PCS Group"). That same day, the General Counsel/Americas advised QUATTRONE not to discuss the matter with the subordinate, given that both QUATTRONE and the subordinate were potential witnesses in the investigation.

An email from the General Counsel/Americas to QUATTRONE stated, in relevant part:

Not advisable because your conversation with him or anyone other than me or any other lawyer on this matter is not privileged. I am happy to call [the subordinate] to tell him and say I advised you not to. When I talk to him, I will advise [the subordinate] not to discuss with anyone, including specifically [another subordinate in the Tech PCS Group] because it is likely he and she, as well as you, will be called as witnesses by the SEC and I don't want there to be any inference whatsoever that anyone was trying to influence anyone else's testimony. Also, remember any conversation or email you have on this subject to him or to any issuer will be the subject of questioning because not privileged. Thus, don't call any 1998-2000 issuer to give heads-up. Instead, give me a list of contacts and we will do so in privileged way.

25. On or about October 18, 2000, the SEC issued a formal administrative "Order Directing Private Investigation

And Designating Officers To Take Testimony," which authorized the SEC's staff, among other things, to issue subpoenas in connection with the investigation of CSFB.

26. On or about October 18, 2000, the SEC issued a subpoena to CSFB that required CSFB to produce a wide variety of documents relating to all IPOs for which CSFB served as adviser or underwriter during the period January 1, 1999 through October 18, 2000, including the following:

a. "All documents relating to representations made by CSFB to the issuers of the IPOs including ...

underwriter agreements, prospectuses, minutes, agendas with attachments, notes, emails and reports";

b. "All documents relating to CSFB's internal sales materials for all IPOs";

c. "All closing binders and documents relating to closing binders for all IPOs";

d. "All documents sufficient to show communications involving CSFB employees, pertaining to or relating to all IPOs," including emails involving CSFB's Technology Group;

e. "All documents relating to the valuation and pricing of all IPOs"; and

f. "All documents sufficient to show communications between CSFB and the issuers of all IPOs."

27. On or about October 18, 2000, LCD requested that FRANK QUATTRONE, the defendant, advise LCD whether he had participated in the allocation of shares in the IPO of Selectica, Inc. An email from LCD to QUATTRONE stated, in relevant part:

I am working on the SEC investigation into IPO allocations. I need to confirm if you had any involvement at all in the allocation of Selectica, Inc., including any consulting, e-mails, conferences, etc.

Please advise me ASAP since we need to provide a list to the SEC.

28. On or about October 20, 2000, FRANK QUATTRONE, the defendant, advised LCD that he did not recall having participated in the allocation of shares of Selectica, Inc.

29. On or about October 20, 2000, LCD requested that FRANK QUATTRONE, the defendant, advise LCD whether he had participated in the allocation of shares in the IPO of VA Linux.

30. On or about October 20, 2000, FRANK QUATTRONE, the defendant, advised LCD that he did not recall having participated in the allocation of shares of VA Linux.

31. On or about October 25, 2000, LCD advised FRANK QUATTRONE, the defendant, that in response to the SEC investigation, LCD needed to collect and review all documents relating to the "valuation and pricing" of Selectica, Inc., including any such documents in QUATTRONE's possession. An email from LCD to QUATTRONE stated, in relevant part:

In response to the SEC investigation of IPO allocations, we need to review all documents related to valuation and pricing of Selectica, Inc., including notes, memoranda, emails on your pc, etc. Please forward all documents on this matter to my attention or reply of [sic] you do not have any such documents concerning the valuation or pricing.

32. From in or about October 25, 2000 through in or about October 30, 2000, FRANK QUATTRONE, the defendant, caused documents relating to the valuation and pricing of the IPO of Selectica, Inc. that were in his possession to be collected and provided to LCD.

The Grand Jury Investigation

33. In the Fall of 2000, the Grand Jury commenced an investigation of CSFB's IPO underwriting and allocation processes. The Grand Jury's investigation focused, in part, upon CSFB's practice of allocating shares of IPOs to certain clients who paid CSFB exorbitant commissions on other securities trades.

34. On or about November 21, 2000, the Grand Jury issued subpoenas to CSFB and approximately eight of its employees. The subpoenas to the CSFB employees sought their testimony, and the subpoena to CSFB directed the production to the Grand Jury of a broad array of documents, including the following documents relating to all IPOs for which CSFB served as underwriter, adviser, lead manager, or co-manager, during the period January 1, 1999 through November 21, 2000:

- a. All documents sufficient to identify the issuers of the IPOs;
- b. All documents relating to any communications between CSFB and any of the issuers of the IPOs;
- c. All documents relating to the allocation of shares of the IPOs;

- d. All documents relating to CSFB's internal sales or marketing materials for the IPOs;
- e. All documents relating to CSFB's policies and procedures for the allocation of shares of initial public offerings of securities;
- f. All documents relating to CSFB's policies and procedures for commissions charged to CSFB clients;
- g. All documents relating to any commissions charged to [specified] [c]lient [a]ccounts;
- h. All documents sufficient to identify the name, address, telephone numbers, and account representatives for any CSFB account which received at least 500 shares of any of the IPOs;
- i. All documents relating to the receipt of compensation by CSFB in connection with the IPOs;
- j. All documents relating to the valuation and pricing of the IPOs;
- k. All documents requested by, or produced to, the NASD in connection with its investigation; and
- l. All documents requested by, or produced to, the Securities and Exchange Commission in connection with its investigation.

35. On or about December 3, 2000, the General Counsel/Americas and FRANK QUATTRONE, the defendant, discussed the existence of the federal Grand Jury investigation and the receipt of the Grand Jury subpoenas, through the following email correspondence:

a. At approximately 2:04 p.m. EST, the General Counsel/Americas sent QUATTRONE an email that stated, in relevant part:

As you may know, there has been an inquiry going on by both the SEC and NASDR into our allocation processes in the IPO market. There have been some recent developments that are of extreme concern that I need to speak with you about as soon as possible.

b. At approximately, 4:51 p.m. EST, QUATTRONE sent the General Counsel/Americas an email, asking if the General Counsel/Americas could "email [QUATTRONE] some details of [the General Counsel/Americas'] concerns?"

c. At approximately 5:39 p.m. EST, the General Counsel/Americas sent QUATTRONE an email that stated, in relevant part:

Briefly, and this should absolutely not be passed on to anyone else, we have received

Federal Grand Jury subpoenas asking for testimony and documents about the IPO allocation process from the firm and each of the nine people who has so far testified before the NASDR. I have retained [Lawyer] to represent us in this criminal investigation and he and I are meeting as early as tomorrow with the US Attorney in NY to try to prevent them from sending subpoenaes for testimony and documents to the customers who received allocations in, among others, VA Lynux [sic], as well as subpoenaes to the issuers, because of the inherent possibility of a leak which would be extremely detrimental. Please call me tonight up to 10 pm or tomorrow.

d. At approximately 5:46 p.m. EST, QUATTRONE sent the General Counsel/Americas an email, asking "Are the regulators accusing us of criminal activity?"

e. At approximately 5:48 p.m. EST, QUATTRONE sent the General Counsel/Americas an email, asking "Who are the nine people?"

f. At approximately 5:53 p.m. EST, the General Counsel/Americas sent QUATTRONE an email, stating, in relevant part:

The ones I have told so far are [Three Names Listed]. Until I tell the others personally tomorrow, I don't want to disclose their names yet. In answer to your other email, they are not formally accusing us or the individuals yet, but they are investigating because they think something bad happened. They are completely wrong but merely being investigated and having something leak could be quite harmful, so the idea is to get them to back off their inquiry, we educate them as to the entire IPO process, including [sic] the allocation [sic] issues and criteria, and urge them to back off.

g. At approximately 5:56 p.m. EST, the General Counsel/Americas sent QUATTRONE an email, stating, in relevant part:

But please do not under any circumstances discuss these facts with anyone -- however innocently -- because everything we say now is going to come under a microscope. I know these people and how they work and I am controlling the flow of information on an extremely tight need to know basis with all sorts [sic] of privileges attached. This is serious and unless I can slow it down and curtail what they do, it will spread to others in the firm. That's why I do need to speak with you personally.

The December 4-5 Emails

36. On or about December 4, 2000, at approximately 6:20 p.m. EST, CSFB's "Global Head of Execution - Technology Group" (the "Head of Execution") sent an email to FRANK QUATTRONE, the defendant, the Head of Global Corporate Finance, and the Head of West Coast Corporate Finance, which proposed that a memo be sent to various members of the Technology Group reminding them to comply with CSFB's document retention policy and destroy various documents relating to IPOs underwritten by CSFB. The email stated, in relevant part:

With the recent tumble in stock prices, and many deals now trading below issue price, I understand the securities litigation bar is mounting an all out assault on broken tech IPOs.

In the spirit of the end of the year (and the slow down in corporate finance work) you may want to send around a memo to all corporate finance bankers (and their assistants) reminding them of the CSFB document retention policy and suggesting that before they leave for the holidays, they should catch up on file cleanup.

Today, it's administrative housekeeping.

In January, it could be improper destruction of evidence.

37. On or about December 4, 2000, at approximately 6:23 p.m. EST, the Head of West Coast Corporate Finance sent an email to FRANK QUATTRONE, the defendant, the Head of Execution, and the Global Head of Corporate Finance, stating, "Why don't you send out the emal [sic] with [Global Head of Corporate Finance,] you and I on the memo[.] Let's make this a top priority."

38. On or about December 4, 2000, at approximately 6:23 p.m. EST, FRANK QUATTRONE, the defendant, sent an email to the Head of Execution, the Global Head of Corporate Finance, and the West Coast Head of Corporate Finance which stated, "You shouldn't make jokes like that on email!"

Through this email, QUATTRONE authorized the Head of Execution to send the proposed reminder.

39. On or about December 4, 2000, at approximately 8:13 p.m. EST, with the authorization of FRANK QUATTRONE, the defendant, the Head of Execution sent an email (the "December 4 Email") to hundreds of members of the Technology Group, including to FRANK QUATTRONE, the defendant, urging the recipients to comply with CSFB's document retention policy and destroy documents not required to be retained under the terms of that policy. The December 4 Email stated, in relevant part:

With the recent tumble in stock prices, and many deals now trading below issue price, the securities litigation bar is expected to [sic] an all out assault on broken tech IPOs.

In the spirit of the end of the year (and the slow down in corporate finance work), we want to reminding [sic] you of the CSFB document retention policy. The full policy can be found at http://intranet.csfb.net/GlobalIBD/lcd/doc_retention_us.html The relevant text is:

"For any securities offering, the Designated Member [of the deal team] should create a transaction file consisting of (i) all filings made with the SEC in connection with an SEC registered offering or, in an unregistered offering, the final offering memorandum used in a Rule 144A offering or other form of private placement, (ii) the original executed underwriting or placement agent agreements, (iii) the original

executed comfort letters from accountants, (iv) the original executed opinions of counsel and (v) a completed document checklist (see Exhibit B hereto). In order to avoid confusion and ensure greater compliance with these policies, no file categories other than those set forth in Exhibit B may be created in connection with any CSFB managed securities offering without the approval of your team leader and a lawyer in the IBD Legal and Compliance Department or the CDG Manager."

So what does it mean? Generally speaking, if it is not (i) - (v), it should not be left in the file following completion of the transaction. That means no notes, no drafts, no valuation analysis, no copies of the roadshow, no markups, no selling memos, no IBC or EVC memos, no internal memos.

Note that if a lawsuit is instituted, our normal document retention policy is suspended and any cleaning of files is prohibited under the CSFB guidelines (since it constitutes the destruction of evidence). We strongly suggest that before you leave for the holidays, you should catch up on file cleaning.

40 On or about December 4, 2000, at approximately 8:18 p.m. EST, FRANK QUATTRONE, the defendant, drafted, but did not send, an email to the Head of Execution and to all of the recipients of the December 4 Email that stated, A[H]aving

been a key witness in a securities litigation case in south texas (miniscribe).@

41 On or about December 5, 2000, the General Counsel/Americas sent emails to FRANK QUATTRONE, the defendant, and others, concerning a news article about the pending Grand Jury investigation that was expected to be published in the Wall Street Journal and including proposed statements to be made on behalf of CSFB.

42 On or about December 5, 2000, at approximately 1:47 p.m. EST, the General Counsel/Americas spoke by telephone with FRANK QUATTRONE, the defendant. During the call, the General Counsel/Americas advised QUATTRONE that QUATTRONE needed to retain his own counsel to represent him in the Grand Jury investigation, and QUATTRONE identified the attorney whom he wished to represent him.

43 On or about December 5, 2000, at approximately 9:28 p.m. EST, QUATTRONE completed drafting the email he had begun to draft the previous day (the "December 5 Email") and sent it to hundreds of members of the Technology Group. The December 5 Email attached the text of the December 4 Email and stated, "[H]aving been a key witness in a securities litigation case in south texas (miniscribe) i strongly advise you to follow these procedures."

44 Following the dissemination of the December 4 Email and the December 5 Email, members of CSFB's Technology Group destroyed hard copy and electronic documents relating to the IPOs, including documents that were required to be produced to the SEC and Grand Jury.

Statutory Allegation

45 In or about December 2000, in the Southern District of New York and elsewhere, FRANK QUATTRONE, the defendant, unlawfully, wilfully, and knowingly, corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, and impede, the due administration of justice, to wit, endeavoring to influence, obstruct, and impede the Grand Jury investigation, as set forth above.

(Title 18, United States Code, Sections 1503 and 2.)

COUNT TWO

(Obstruction of Agency Proceedings)

The Grand Jury further charges:

46 The allegations contained in paragraphs 1 through 44 are repeated and realleged as if fully set forth herein.

47 In or about December 2000, in the Southern District of New York and elsewhere, FRANK QUATTRONE, the

defendant, unlawfully, wilfully, and knowingly, corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, and impede, the due and proper administration of the law under which a pending proceeding was being had before a department and agency of the United States, to wit, endeavoring to influence, obstruct, and impede the SEC's investigation, as set forth above.

(Title 18, United States Code, Sections 1505 and 2.)

COUNT THREE

(Witness Tampering)

The Grand Jury further charges:

48 The allegations contained in paragraphs 1 through 44 are repeated and realleged as if fully set forth herein.

49 In or about December 2000, in the Southern District of New York and elsewhere, FRANK QUATTRONE, the defendant, unlawfully, wilfully, and knowingly, corruptly persuaded another person, and attempted so to do, and engaged in misleading conduct toward another person, with intent to cause and induce a person to withhold a record, document, and other object, from an official proceeding; and alter, destroy, mutilate, and conceal an object with intent to impair the

object's integrity and availability for use in an official proceeding, namely, the Grand Jury and SEC investigations, as set forth above.

(Title 18, United States Code, Sections 1512 and 2.)

FOREPERSON

JAMES B. COMEY
United States Attorney