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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

I N F O R M A T I O N

- against -

Cr. No. 04-837 (ILG)
(T. 15, U.S.C., §§ 78j(b)
and 78ff; T. 18, U.S.C.,
§§ 1512(c)(2) and 3551 et
seq.)

COMPUTER ASSOCIATES
INTERNATIONAL, INC.

Defendant.

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THE UNITED STATES ATTORNEY CHARGES:

INTRODUCTION

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

I. Background

A. The Defendant

1. COMPUTER ASSOCIATES INTERNATIONAL, INC. ("CA"), was a Delaware corporation with its headquarters and principal place of business located in Islandia, New York. CA was one of the world's largest providers of computer software for use by businesses. CA's reported revenue for its fiscal year ending March 31, 1999 was \$5.253 billion. CA's reported revenue for its fiscal year ending March 31, 2000 was \$6.776 billion.

2. CA was a publicly traded corporation, the common stock of which was listed on the New York Stock Exchange. CA's shareholders were located throughout the United States, including in the Eastern District of New York.

3. CA did not sell or transfer title to its software products to its customers. Instead, CA licensed its software products pursuant to license agreements by which CA's customers agreed to pay a one-time license fee and annual usage and maintenance fees.

B. Certain Relevant Accounting Principles

4. As a public company, CA was required to comply with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public.

5. Under the SEC's rules and regulations, CA and its officers were required to (a) make and keep books, records and accounts which, in reasonable detail, fairly and accurately reflected the company's business transactions, including its revenue and expenses; (b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles ("GAAP"); and (c) file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) which included financial

statements that accurately presented CA's financial condition and the results of its business operations in accordance with GAAP.

6. Under GAAP, four conditions were required to be met in order for revenue associated with a software license agreement to be recognized: (a) persuasive evidence of an arrangement was required to have existed; (b) delivery of the licensed products was required to have occurred; (c) the license fee was required to have been fixed or determinable; and (d) the collectibility of the license fee was required to have been probable.

7. When a written contract was used to memorialize a license agreement, the GAAP "persuasive evidence" criterion required that the contract be signed by both vendor and customer. Accordingly, under GAAP, in order for CA properly to have recognized revenue from a license agreement in a particular fiscal quarter, the license agreement was required to have been signed by both CA and its customer within that quarter.

8. When a license agreement was finalized, for accounting purposes CA allocated its revenue among the license fee and the usage and maintenance fees, with 80 percent or more normally allocated to the license fee. CA then calculated the present value of the license fee, which was normally collected incrementally over the term of the agreement. The present value of the license fee, which was referred to within CA as the "GAAP

Value," was then recognized as revenue in the quarter in which the agreement was purportedly finalized and signed.

C. Consensus Estimates

9. CA regularly issued public predictions at the outset of each fiscal quarter of the revenue and earnings it expected to earn during that quarter. Based in part on these predictions, professional stock analysts estimated what they believed would be CA's total revenue during the period and predicted the earnings per share of CA stock. The average of the estimates of the professional analysts was commonly referred to as the "consensus estimate."

10. CA's officers, executives and directors understood that CA's failure to meet or exceed the consensus estimate for a quarter would likely result in a substantial decrease in the company's stock price. For example, on July 3, 2000, CA issued a press release which reported that the company expected "financial results for the first quarter [of fiscal year 2001] ending June 30, 2000 to be less than current Wall Street estimates." In the press release, CA cited as one of the factors contributing to its failure to meet the consensus estimate "the fact that several large contracts that were expected to close in the final days of the quarter have been delayed" On the date of the press release, which was issued after the market closed, CA's stock price closed at \$51.12 per share. On the next trading day,

July 5, 2000, CA's stock price opened at \$29.00 per share, representing a percentage drop of slightly more than 43 percent.

D. The Scheme to Defraud: the "35-Day Month"

11. Prior to and during CA's fiscal year 2000, which ended March 31, 2000, numerous CA officers and executives engaged in a systemic, company-wide practice of falsely and fraudulently recording and reporting within a fiscal quarter revenue associated with certain license agreements even though those license agreements had not in fact been finalized and signed during that quarter. This practice, which was sometimes referred to within CA as the "35-day month" or the "three-day window," violated GAAP and resulted in CA's filing of materially false financial statements.

12. The practice was referred to as the "35-day month" because it involved artificially extending months, primarily the last month of a fiscal quarter, beyond the true end of the month. The practice did not, however, only result in months that were artificially extended to 35 days. Instead, months were often artificially extended even longer. Nonetheless, for the sake of simplicity, the practice is referred to hereinafter as the "35-day month practice."

13. The central goal of the 35-day month practice was to permit CA to report that it met or exceeded its projected quarterly revenue and earnings when, in truth, CA had not met its

projected quarterly revenue and earnings. As a result of the practice, CA reported falsely to investors and regulators during numerous fiscal quarters, including each of the four quarters of CA's fiscal year 2000, that it had met or exceeded its consensus estimates. In fact, in each of the four quarters of fiscal year 2000, CA improperly recognized and falsely reported hundreds of millions of dollars of revenue associated with numerous license agreements that had been finalized after the quarter close. In so doing, CA made misrepresentations and omissions of material fact which were relied upon by members of the investing public.

14. As part of the 35-day month practice, certain CA executives routinely extended CA's fiscal quarters, normally for three business days. This practice, which was known as "keeping the books open," was designed and executed so that CA could falsely record and report revenue associated with license agreements finalized after the end of fiscal quarters. The period including three business days after the end of fiscal quarters was referred to within CA as the "flash period."

15. As a further part of the 35-day month practice, certain CA executives regularly met and conferred with each other in the days leading up to and following the end of fiscal quarters, including during the flash period. The purpose of these meetings was to determine whether CA had generated for the quarter just ended, including during the flash period, sufficient

revenue to meet the consensus estimate. In each of the four quarters of CA's fiscal year 2000, the CA executives collectively determined that the total revenue generated for the quarter by the end of the flash period was less than needed to meet the consensus estimate. In each such instance, the CA executives caused CA to keep its books open for additional days beyond even the flash period to generate sufficient revenue to meet the consensus estimate.

16. As a further part of the 35-day month practice, while CA's books were held open, certain CA executives instructed CA sales managers and salespeople to negotiate and finalize additional license agreements, which were backdated to disguise the fact that the agreements had been finalized after the end of the fiscal quarter. CA then fraudulently recorded and reported in the earlier quarter revenue associated with the backdated agreements.

17. As a further part of the 35-day month practice, certain CA officers and executives concealed the existence of the practice from CA's outside auditors. Among other things, CA executives engaged in a practice of "cleaning up" copies of backdated license agreements before providing copies of the agreements to CA's outside auditors. This practice included, but was not limited to, removing from license agreements facsimile stamps and other notations which showed the true date on which

the agreements were finalized. This practice was designed and carried out to prevent CA's outside auditors, and by extension the investing public, from learning of CA's failure to meet or exceed the consensus estimates for the given quarter.

(1) First Quarter of Fiscal Year 2000

18. The first quarter of CA's fiscal year 2000 included the period from April 1, 1999 to June 30, 1999 (the "First Quarter"). The consensus estimate for the First Quarter was that CA's earnings would be 47 cents per share. When the First Quarter ended on June 30, 1999, CA had not generated sufficient revenue to meet the consensus estimate.

19. For the First Quarter, CA improperly recognized revenue associated with approximately 22 license agreements having an aggregate GAAP Value of approximately \$240 million. Of this total, approximately \$120 million was associated with license agreements signed by CA customers after June 30, 1999, while approximately \$120 million was associated with license agreements countersigned by CA after June 30, 1999. The improperly recognized revenue represented approximately 20 percent of CA's reported revenue for the First Quarter.

20. On or about July 20, 1999, CA filed with the SEC its quarterly report on Form 10-Q and issued a related press release. In these public documents, CA falsely reported its quarterly financial results, in that CA reported revenue for the

First Quarter that included revenue associated with license agreements finalized after June 30, 1999. Through its false filings and statements, CA reported earnings per share of 49 cents exclusive of non-recurring charges and thereby created the false and fraudulent appearance that CA had exceeded the consensus earnings estimate for the First Quarter by two cents per share.

(2) Second Quarter of Fiscal Year 2000

21. The second quarter of CA's fiscal year 2000 included the period from July 1, 1999 to September 30, 1999 (the "Second Quarter"). The consensus estimate for the Second Quarter was that CA's earnings would be 59 cents per share. When the Second Quarter ended on September 30, 1999, CA had not generated sufficient revenue to meet the consensus estimate.

22. For the Second Quarter, CA improperly recognized revenue associated with approximately 58 license agreements having an aggregate GAAP Value of approximately \$560 million. Of this total, approximately \$470 million was associated with license agreements signed by CA customers after October 30, 1999, while approximately \$90 million was associated with license agreements countersigned by CA after October 30, 1999. The improperly recognized revenue represented approximately 35 percent of CA's reported revenue for the Second Quarter.

23. On or about October 19, 1999, CA filed with the SEC its quarterly report on Form 10-Q and issued a related press release. In these public documents, CA falsely reported its quarterly financial results, in that CA reported revenue for the Second Quarter that included revenue associated with license agreements finalized after September 30, 1999. Through its false filings and statements, CA reported earnings per share of 60 cents exclusive of non-recurring charges and thereby created the false and fraudulent appearance that CA had exceeded the consensus earnings estimate for the Second Quarter by one cent per share.

(3) Third Quarter of Fiscal Year 2000

24. The third quarter of CA's fiscal year 2000 included the period from October 1, 1999 to December 31, 1999 (the "Third Quarter"). The consensus estimate for the Third Quarter was that CA's earnings would be 90 cents per share. When the Third Quarter ended on December 31, 1999, CA had not generated sufficient revenue to meet the consensus estimate.

25. For the Third Quarter CA improperly recognized revenue associated with approximately 49 license agreements having an aggregate GAAP Value of approximately \$570 million. Of this total, approximately \$400 million was associated with license agreements signed by CA customers after December 31, 1999, while approximately \$170 million was associated with

license agreements countersigned by CA after December 31, 1999. The improperly recognized revenue represented approximately 32 percent of CA's reported revenue for the quarter.

26. On or about January 26, 2000, CA filed with the SEC its quarterly report on Form 10-Q and issued a related press release. In these public documents, CA falsely reported its quarterly financial results, in that CA reported revenue for the Third Quarter that included revenue associated with license agreements finalized after December 31, 1999. Through its false filings and statements, CA reported earnings per share of 91 cents exclusive of non-recurring charges and thereby created the false and fraudulent appearance that CA exceeded the consensus earnings estimate for the Third Quarter by one cent per share.

(4) Fourth Quarter of Fiscal Year 2000

27. The fourth quarter of CA's fiscal year 2000 included the period from January 1, 2000 to March 31, 2000 (the "Fourth Quarter"). The consensus estimate for the Fourth Quarter was that CA's earnings would be \$1.13 per share. When the Fourth Quarter ended on March 31, 2000, CA had not generated sufficient revenue to meet the consensus estimate.

28. For the Fourth Quarter CA improperly recognized revenue associated with approximately 36 license agreements having an aggregate GAAP Value of approximately \$380 million. Of this total, approximately \$200 million was associated with

license agreements signed by CA customers after March 31, 2000, while approximately \$180 million was associated with license agreements countersigned by CA after March 31, 2000. The improperly recognized revenue represented approximately 18 percent of CA's reported revenue for the quarter.

29. On or about May 15, 2000, CA filed with the SEC its annual report on Form 10-K and issued a related press release. In these public documents, CA falsely reported its quarterly financial results, in that CA reported revenue for the Fourth Quarter that included revenue associated with license agreements finalized after March 31, 2000. Through its false filings and statements, CA reported earnings per share of \$1.13 cents exclusive of non-recurring charges and thereby created the false and fraudulent appearance that CA had met the consensus earnings estimate for the Fourth Quarter.

E. Obstruction of Justice

30. In or about the beginning of 2002, the United States Attorney's Office for the Eastern District of New York (the "United States Attorney's Office"), the Federal Bureau of Investigation (the "FBI") and the Northeast Regional Office of the SEC began investigations into CA's accounting practices, including whether, during the late-1990s and thereafter, CA engaged in improper accounting practices with the intent to overstate its fiscal quarterly revenue to make it appear as

though the company had met consensus estimates. Since June 2002, a grand jury sitting in the Eastern District of New York had been considering evidence about CA's accounting practices. (These investigations are referred to collectively as the "Government Investigations.")

31. In or about February 2002, CA retained a law firm (the "Company's Law Firm") to represent it in connection with the Government Investigations. Through the Company's Law Firm, CA represented to the United States Attorney's Office, the FBI and the SEC that it was committed to cooperating fully with the Government Investigations. This representation was also made publicly by CA in press releases, SEC filings and other public statements. Additionally, in a press release issued on February 20, 2002, CA denied that it had engaged in any improper accounting practices, declaring: "The reporting of our financial results has always been in accordance with applicable accounting principles."

32. Shortly after being retained in February 2002, the Company's Law Firm met with certain CA executives in order to inquire into their knowledge of the practices that were the subject of the Government Investigations. During these meetings, the CA executives did not disclose, falsely denied and otherwise concealed the existence of the 35-day month practice. Moreover, the CA executives concocted and presented to the Company's Law

Firm an assortment of false justifications, the purpose of which was to support their false denials of the 35-day month practice. The CA executives knew, and in fact intended, that the Company's Law Firm would present these false justifications to the United States Attorney's Office, the SEC and the FBI so as to obstruct and impede the Government Investigations.

33. For example, during a meeting with attorneys from the Company's Law Firm, CA's Chief Executive Officer, Sanjay Kumar, and CA's Chief Financial Officer, Ira Zar, discussed the fact that former CA salespeople had accused CA of engaging in the 35-day month practice. Kumar falsely denied that CA had engaged in such a practice and suggested to the attorneys from the Company's Law Firm that because quarterly commissions paid to CA salespeople regularly included commissions on license agreements not finalized until after the end of the quarter, the salespeople might assume, incorrectly, that revenue associated with those agreements was recognized by CA within the quarter. Kumar knew that this explanation was false and intended that the Company's Law Firm would present this false explanation to the United States Attorney's Office, the SEC and the FBI as part of an effort to persuade those entities that the accusations of the former salespeople were unfounded and that the 35-day month practice never existed.

34. During the course of the Government Investigations, the United States Attorney's Office, the FBI and the SEC regularly requested that CA produce certain CA employees to be interviewed. As part of his duties as General Counsel, Steven Woghin coordinated CA's compliance with the government's requests. Sanjay Kumar frequently met and conferred with Woghin during the course of the Government Investigations. Among other things, Kumar instructed Woghin to meet with CA employees prior to their being interviewed by the government or by the Company's Law Firm to coach the employees on how to answer questions without disclosing the existence of the 35-day month practice. On several occasions, Kumar himself coached CA employees on how to answer questions without disclosing the existence of the 35-day month practice.

35. On September 6, 2002, CA executive Lloyd Silverstein was interviewed by the United States Attorney's Office, the FBI and the SEC. Prior to that interview, in August and early-September 2002, Silverstein met and conferred with several other CA executives. During these meetings, the executives agreed that, acting in concert, they would deny and otherwise fail to disclose the existence of the 35-day month practice, in part by giving intentionally vague or misleading answers to questions about the existence of the practice. Accordingly, during the September 6, 2002 interview, Silverstein

did not disclose and otherwise concealed the existence of the 35-day month practice.

36. In or about July 2003, the Audit Committee of CA's board of directors retained a second law firm (the "Audit Committee's Law Firm") to conduct an internal investigation into CA's accounting practices, focusing on the 35-day month practice. As part of its internal investigation, the Audit Committee's Law Firm conducted interviews of CA executives and employees.

37. On or about October 6, 2003, January 14, 2004, January 22, 2004, and April 6, 2004, Sanjay Kumar was interviewed by attorneys from the Audit Committee's Law Firm. During these interviews, Kumar did not disclose, but instead falsely denied and otherwise concealed, the existence of the 35-day month practice. Kumar knew that certain of the statements he made during the interviews were false and that he otherwise concealed during the interviews information which he knew to be material to the Government Investigations. Kumar further knew, and in fact intended, that his false statements and concealment of material information would have the effect of obstructing and impeding the Government Investigations.

38. On October 23, 2003, CA's Head of Worldwide Sales, Steven Richards, testified under oath before the SEC in the Matter of: Computer Associates, Inc., File No. NY 7008. The testimony was taken in Central Islip, New York. During his

testimony, Richards gave knowingly and willfully false testimony in an attempt to conceal the existence of the 35-day month practice.

39. On November 5, 2003, Sanjay Kumar was interviewed by FBI agents and others at the United States Attorney's Office in Brooklyn, New York. During the interview, Kumar made materially false statements and representations in an attempt to conceal the existence of the 35-day month practice.

COUNT ONE
(Securities Fraud)

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

41. On or about and between April 1, 1998 and September 30, 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant COMPUTER ASSOCIATES INTERNATIONAL, INC. did knowingly and willfully, directly and indirectly: (a) use and employ manipulative and deceptive devices and contrivances in violation of Rule 10b-5 of the Rules and Regulations of the SEC (Title 17, Code of Federal Regulations, Section 240.10b5), in that the defendant did knowing and willfully, directly and indirectly, (1) employ devices, schemes, and artifices to defraud; (2) make untrue statements of material fact and omit to state material facts necessary in order to make statements made, in light of the

circumstances under which they were made, not misleading; and
(3) engage in acts, practices, and courses of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of CA securities, and by use of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 3551 et seq.)

COUNT TWO
(Obstruction of Justice)

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

43. In or about and between February 2002 and April 6, 2004, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant COMPUTER ASSOCIATES INTERNATIONAL, INC. did knowingly, intentionally and corruptly obstruct, influence and impede official proceedings, to wit: the Government Investigations.

(Title 18, United States Code, Sections 1512(c)(2) and 3551 et seq.)

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UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK