

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:04CR495
)	
SHAWN P. MCGHEE,)	Count 1: 18 U.S.C. §§ 371
)	(Conspiracy to Commit
Defendant.)	Securities fraud)
)	

Criminal Information

COUNT 1

THE UNITED STATES ATTORNEY CHARGES THAT:

1. From in or about December 2000 to in or about June 2001, in the Eastern District of Virginia and elsewhere, Shawn P. McGhee and his co-conspirators knowingly and unlawfully combined, conspired, confederated, and agreed with each other to commit the following offense of securities fraud against the United States, directly and indirectly, by the use of means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, and to employ, in connection with the purchase and sale of securities issued by PurchasePro.com ("PurchasePro"), manipulative and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by (a) employing devices,

schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state materials facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which would operate as a fraud and deceit upon the purchaser and seller, 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.

2. It was part of the conspiracy that McGhee and other officers and senior managers of PurchasePro falsely inflated the revenue reported by PurchasePro to the public and in its filings with the United States Securities and Exchange Commission for PurchasePro's first quarter of 2001 by a material amount.

3. It was further part of the conspiracy that in or about March and April 2001, McGhee negotiated the sale of a PurchasePro marketplace license for approximately \$3.5 million to an internet software consulting company in California (hereinafter "Internet Software Consulting Company I").

4. It was further part of the conspiracy that in or about April, 2001, McGhee signed the \$3.5 million marketplace license contract with the Internet Software Consulting Company I and falsely represented that it was negotiated and signed on or

before March 31, 2001. McGhee knew and understood that it was the policy of PurchasePro and PurchasePro's auditors not to recognize revenue for a quarter unless the underlying contract supporting the revenue had in fact been executed in writing by the parties by the close of the quarter.

5. It was further part of the conspiracy that McGhee induced the principal from the Internet Software Consulting Company I to buy the \$3.5 million marketplace license by committing that, in the second quarter of 2001, PurchasePro would buy approximately \$8 million or more in internet software consulting services ("Second Quarter Internet Consulting Services Contract") from another company ("Internet Software Consulting Company II") controlled by the principal of the Internet Software Consulting Company I.

6. It was further part of the conspiracy that McGhee informed and discussed the inducement with other officers and senior managers at PurchasePro.

7. It was further part of the conspiracy that on or about April, 2001, McGhee signed and executed a sales representation letter to PurchasePro's auditors that was backdated to March 31, 2001 that falsely stated that there were no obligations to deliver future services and no unidentified oral agreements relating to the \$3.5 million marketplace license. McGhee and

other officers and senior managers of PurchasePro knew and understood that, if PurchasePro's auditors were informed about the full terms of the side agreement with both the Internet Software Consulting Company I and Internet Software Consulting Company II, the auditors would not approve recognition of some or all of the \$3.5 million as revenue in the first quarter of 2001.

8. It was further part of the conspiracy that on or about April 26, 2001, McGhee and other officers and senior managers of PurchasePro issued, or caused the issuance of, a press release to the public stating that PurchasePro had earned revenue in the first quarter of 2001 in the amount of approximately \$29.8 million. McGhee and other officers and senior managers of PurchasePro knew and understood that this April 26, 2001 press release by PurchasePro was materially false and misleading because a material amount of the \$29.8 million was improperly recorded revenue.

9. It was further part conspiracy that on or about May 25, 2001, McGhee represented to Arthur Andersen that there were no material transactions that were not recorded properly recorded in the PurchasePro accounting records and that the financial statements properly recorded the related party transactions (including sales and purchases). McGhee knew and understood that these representations were false and misleading.

10. It was further part of the conspiracy that on or about May 29, 2001, McGhee and other officers and senior managers of PurchasePro filed, or caused the filing of, PurchasePro's quarterly report on Form 10-Q for the fiscal quarter ending March 31, 2001 ("Form 10-Q filing") with the Securities and Exchange Commission, which reported and disclosed that the company had earned approximately \$16 million in revenue for that quarter. McGhee and other officers and senior managers of PurchasePro knew and understood that the approximately \$16 million in revenue reported by PurchasePro in the Form 10-Q filing was materially false and misleading because the filing included approximately \$3.5 million of improperly recorded revenue from the marketplace license sold to Internet Software Consulting Company I.

Overt Act

11. In furtherance of the conspiracy and to effect the objects thereof, the following overt act, among others, was committed in the Eastern District of Virginia:

On or about May 29, 2001, McGhee and other officers and senior managers of PurchasePro electronically filed, or caused the electronic filing of, PurchasePro's materially false and misleading quarterly report on Form 10-Q filing for the

fiscal quarter ending March 31, 2001, with the EDGAR Management Office of Information and Technology in Alexandria, Virginia.

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

Respectfully submitted,
PAUL J. MCNULTY
UNITED STATES ATTORNEY

By: _____
Dana J. Boente
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By: _____
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By: _____
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