

## [Securities Regulation Daily Wrap Up, ENFORCEMENT—W.D.N.C.: Two more Swisher execs indicted for cooking books, \(Oct. 20, 2015\)](#)

Securities Regulation Daily Wrap Up

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By Anne Sherry, J.D.

The former CFO and director of external reporting for Swisher Hygiene have been indicted for their alleged role in manipulating the company's reported earnings. The charges come two weeks after the announcement that Swisher had entered into a deferred prosecution agreement and that its former director of financial planning and analysis would enter a guilty plea for his role in the fraud ([U.S. v. Kipp](#), October 19, 2015).

The alleged fraud, which took place in 2011 and 2012, was meant to ensure that Swisher met or exceeded management forecasts. The indictment maintains that the co-conspirators created fraudulent accounting entries and provided false or misleading information to Swisher's outside auditor, its lender (Wells Fargo), and the public. The outside auditor learned of the fraud from a Swisher employee who had been fired after refusing to make a fraudulent entry in the company's books. The audit committee then commissioned an internal investigation, and the defendants allegedly concealed their fraud and lied to the investigators. The indictment charges the two defendants with conspiracy, wire fraud, securities fraud, bank fraud, and obstruction of justice.

U.S. Attorney Jill Westmoreland Rose and FBI Special Agent in Charge John A. Strong announced the charges, which Rose [said](#) "make clear that regardless of title or position, my office will prosecute corporate executives who engage in financial fraud schemes that defraud the investing public and undermine the integrity of our financial markets." Strong added, "These corporate executives were entrusted to fairly and accurately report the earnings of their employer; instead, they manipulated and falsified the numbers putting the hard earned money of shareholders at risk and undermining the laws in place to protect our financial markets. The FBI will root out corporate fraud wherever it exists."

The case is [No. 15 CR 244](#).

Attorneys: Robert Adams Blake, Jr. (Wyatt & Blake) for Michael Kipp. Emily Claire McGowan (Alston & Bird LLP) for Joanne Viard. Maria Kathleen Vento, U.S. Attorney's Office, for the United States.

Companies: Swisher Hygiene Inc.

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