

Title: Guilty RICO plea Retail RIGHT Swaps "raise or depress the price" & "induce others to purchase" through ETF Index Archegos "Scott Becker/William Tomita" <https://pacer.uscourts.gov>

Author: idLogger

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national securities exchanges, effected, alone and with one and more other persons, a series of transactions in securities registered on national securities exchanges, securities not so registered, and in connection with security-based swaps and security-based swap agreements with respect to such securities creating actual and apparent active trading in such securities, and raising and depressing the price of such securities, for the purpose of inducing the purchase and sale of such securities by others, to wit, TOMITA engaged in a series of transactions in securities and securities-based swaps underlying certain of Archegos's positions in order to raise or depress the price of and induce others to purchase those securities.

37. Archegos Fund's Broad-Based Security Index Swaps also played a critical role in Swap Counterparties' assessment and management of Archegos Fund's credit risk. The Broad-Based Security Index Swaps were typically placed as short positions and thus served as a general market hedge and risk-reducing measure. Archegos Fund's largest positions were long TRS positions in single securities; as such, there was a risk that certain market-wide factors would negatively impact these long positions. By shorting a large section of the market, the Broad-Based Security Index Swaps were designed to hedge against the risk of a market decline impacting the long TRS positions. The idea behind this trading strategy was that because the Broad-Based Security Index Swaps were less volatile, more diverse, and more liquid, they could more easily and quickly be unwound. In addition, the short Broad-Based Security Index Swaps would not necessarily be subject to the same losses suffered by the long TRS positions in the event of a market decline. Because of their risk-reducing properties, Archegos's placement of

3. TOMITA is expected to plead guilty pursuant to a cooperation agreement with the Government. Based in part on TOMITA's assistance, the Government soon expects to decide whether or not to seek a sealed indictment against other targets of the investigation. If the Government chooses to seek such an indictment, the Government anticipates that the other targets will be arrested in the near future.

4. Although there is a qualified right of public access to Court documents, the Second Circuit has recognized that documents may be filed under seal to protect, among other things, a cooperating defendant's safety, or to further ongoing law enforcement efforts. *See United States v. Cojab*, 996 F.2d 1404, 1407-09 (2d Cir. 1993) (affirming Sealing Order); *United States v. Haller*, 837 F.2d 84, 88 (2d Cir. 1988) (affirming decision to seal that portion of a plea agreement that referred to a defendant's ongoing cooperation); *see also* Fed. R. Crim. Pro. 49.1(d) & (e) and advisory committee note (permitting a court to order filings to be made under seal, and explicitly listing, as examples, "motions for downward departure for substantial assistance" and "plea

Means and Methods of the Racketeering Conspiracy

8. SCOTT BECKER, the defendant, the founder of Archegos, the CFO of Archegos, and the head trader of Archegos

sought to advance the purposes of the racketeering conspiracy, and to conduct and participate, directly and indirectly, in the conduct of the Archegos Enterprise, through various unlawful means and methods, including: