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**CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF IOWA**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 4:08-CR-153
)	
v.)	
)	
DANIEL A. NELSON, and)	<u>INDICTMENT</u>
CHRISTIAN J. TAPKEN,)	18 U.S.C., Section 2
)	18 U.S.C., Section 1341
)	18 U.S.C., Section 1343
Defendants.)	18 U.S.C., Section 1349

THE GRAND JURY CHARGES:

INTRODUCTORY ALLEGATIONS

At all times material to this Indictment:

1. In 1992, defendant DANIEL A. NELSON, with two other people, founded South Dakota Auto Group (SDAG) and South Dakota Acceptance Corporation (SDAC), and began doing business in Sioux Falls, South Dakota.
2. These companies, incorporated under the laws of the State of South Dakota, were initiated to sell lower value, higher mileage used cars to consumers in the sub-prime automobile market, based on the JD Byrider model of buy here-pay here sales and collections.
3. These companies were very closely interrelated in that, among other things, SDAG purchased and sold cars, while SDAC bought the consumer sales contracts directly from SDAG, and only SDAG, and collected upon said consumer contracts.

4. The used car business established by defendant NELSON and others was initiated as a franchise of JD Byrider and Car Now Acceptance Corporation (CNAC).

5. One of the founders of the businesses other than defendant NELSON left the businesses early in their existence.

6. The other founder of the businesses and defendant DANIEL A. NELSON terminated their business relationship in or about November of 2000, with NELSON buying out the other person's interest in SDAG and SDAC over a five year period for approximately \$500,000.00.

7. In or about the early part of 2004, defendant DANIEL A. NELSON sold a 25% interest in the companies to defendant CHRISTIAN J. TAPKEN. By late in 2005, after DNAG and SDAC had failed, defendant NELSON sold the balance of the 100% interest in the companies to defendant TAPKEN. Defendant NELSON was at all times material to this Indictment, an owner, officer and member of the board of directors of DNAG (previously SDAG), SDAC and Victory Properties, LLC. Defendant TAPKEN was at all times in and after his purchase of a 25% ownership interest in DNAG, SDAC and Victory Properties, LLC in and about 2004, an owner, officer and member of the board of directors of DNAG, SDAC and Victory Properties, LLC. Defendant TAPKEN had since in or about December of 1996 been the Chief Operating Officer of the companies, having joined the companies earlier in 1996.

8. In or about February of 1996, defendant DANIEL A. NELSON incorporated Dan Nelson Automotive Group, Inc (DNAG) under the laws of the State of South Dakota, and in or about February of 2002, merged SDAG and DNAG under the corporate name of Dan Nelson

Automotive Group, Inc (DNAG). NELSON maintained SDAC as a separate, but interrelated corporation.

9. From in or about July of 1996 SDAG (later DNAG) and SDAC were expanded geographically. The companies expanded the businesses to:

- a. Sioux City, Iowa, in or about July of 1996;
- b. Des Moines, Iowa, in the Southern District of Iowa, in or about 1997;
- c. Council Bluffs, Iowa, in the Southern District of Iowa, in or about July of 2001; and
- d. Rapid City, South Dakota, in or about September of 2004.

10. Defendant NELSON also expanded his interrelated companies from SDAG (later DNAG) and SDAC to include, among others:

- a. Prairie Fire Communications (advertising and media relations), in or about February of 1998;
- b. Auto Movers USA, Inc. (hauling of vehicles between auctions and sales lots), in or about 1998;
- c. Victory Properties, LLC (companies' real estate), in or about July of 1998;
- d. E Car Care [later merged with DNAG] (auto reconditioning and repair), prior to 1999;
- e. Prairie Fire Web Design (design and development of web sites), in or about November of 1999;
- f. JC Payday Motors, under the name of John Pellerzi, in or about January of 2003
- g. USA Cycles, Inc, in or about May of 2003

11. Beginning in or about 2000, Defendant NELSON also expanded the business model, moving from only the JD Byrider model, to also selling somewhat higher value used vehicles, and to selling new cars. This included:

- a. In or about 2000, defendant NELSON expanded used car sales from the JD Byrider market, to the sale of somewhat higher valued, somewhat lower mileage vehicles.

- b. In or about 2000, defendant NELSON instituted the concept and public titling of the company's sales centers as Dan Nelson Finance Super Centers.
- c. Defendant NELSON also added a number of new car dealerships:
 - (1) Daewoo franchises, all as DNAG d/b/a Dan Nelson Daewoo:
 - Sioux City, Iowa, in or about 2000;
 - Council Bluffs, Iowa, in or about 2001;
 - Sioux Falls, South Dakota, in or about 2002;
 - (2) Suzuki franchise in Sioux City, Iowa, in or about April of 2002, as DNAG d/b/a Dan Nelson Suzuki;
 - (3) Isuzu franchise in Sioux Falls, South Dakota, in or about December of 2002, as DNAG d/b/a Dan Nelson Isuzu;
 - (4) Mazda franchise in Sioux City, Iowa, in or about April of 2003, as DNAG d/b/a Dan Nelson Mazda;
 - (5) Isuzu sales center in Rapid City, South Dakota, in or about September of 2003, as DNAG d/b/a Dan Nelson Isuzu;
 - (6) Subaru franchise in Sioux Falls, South Dakota, in or about November of 2003, as DNAG d/b/a Dan Nelson Subaru
 - (7) Hyundai franchise in Rapid City, South Dakota, in or about 2005, as DNAG d/b/a Dan Nelson Hyundai

12. Beginning in or about May of 1997, and continuing to in or about July of 2005, the main bank from which SDAG (later DNAG), SDAC and Victory Properties, LLC borrowed money was First Federal Savings Bank of the Midwest (later MetaBank), with offices in Sioux Falls, South Dakota, and Storm Lake, Iowa. The Sioux Falls, South Dakota, office of First Federal Savings Bank of the Midwest (MetaBank) dealt primarily with DNAG and SDAC personnel.

13. Defendants DANIEL A. NELSON (the companies' president) and CHRISTIAN J. TAPKEN (the companies' chief operating officer and later vice-president), and Dan Paulson (the companies' chief financial officer) were the DNAG and SDAC personnel who primarily had contact with First Federal Savings Bank of the Midwest (MetaBank), especially in matters dealing with policy, planning or money.

14. First Federal Savings Bank of the Midwest (MetaBank) was at all times material to this Indictment insured by the Federal Deposit Insurance Corporation (FDIC), regulated by a federal regulatory agency, and otherwise qualified as a federal financial institution under Title 18, United States Code, Sections 1344 and 20.

15. The borrowing relationship between DNAG (previously SDAG), SDAC, Victory Properties, LLC, and associated entities, and First Federal Savings Bank of the Midwest (MetaBank) was memorialized in a written agreement entitled "Loan and Security Agreement". The original form of the agreement was entered into in or about May of 1997. This agreement was modified from time to time during the borrowing relationship, and was, after being modified, entitled the "Amended and Restated Loan and Security Agreement". This agreement in all of its forms is sometimes herein referred to as the "Master Loan Agreement".

16. The total amount of money loaned to SDAC and DNAG through First Federal Savings Bank of the Midwest (MetaBank) by in or about late 2004 or early 2005, exceeded \$30,000,000.00.

17. First Federal Savings Bank of the Midwest (MetaBank) entered into a number of lines of credit and term loans with DNAG, SDAC and Victory Properties, LLC. Under the lines

of credit, First Federal Savings Bank of the Midwest (MetaBank) and later the Participant Banks would advance money to DNAG and SDAC as requested and justified by DNAG and SDAC. Intermittently between the advances of money, DNAG and SDAC would pay principal and interest on the lines of credit. This pattern of advances and repayments caused the amount of money borrowed by DNAG and SDAC under each line of credit to fluctuate regularly.

18. The various lines of credit and term loans included:

- a. South Dakota Acceptance Corporation (SDAC) line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$20,000,000.00 line of credit; to fund accounts receivable for SDAC; guaranteed by DNAG, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Banks as Exchange State Bank (located in the Southern District of Iowa), Home Federal Savings Bank, First Indiana Bank, MidCountry Bank (First Federal, FSB), First Premier Bank, Deerfield First Midwest Bank, and North American Banking Company.
- b. Dan Nelson Auto Group, Inc (DNAG) line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$5,000,000.00 line of credit; to fund used car inventory including both "JD Byrider-type vehicles" and other used cars ("floor-planning" for used cars); guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Banks as Guthrie County State Bank (located in the Southern District of Iowa), MetaBank West Central (Security State Bank) (at all times material to this Indictment located in the Southern District of Iowa), and Home Federal Bank.
- c. Dan Nelson Auto Group, Inc (DNAG) d/b/a Dan Nelson Subaru line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN

as a \$2,000,000.00 line of credit; to provide floor-planning for the DNAG Subaru car inventory; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Bank as Cedar Rapids Bank & Trust.

- d. Dan Nelson Auto Group, Inc (DNAG) d/b/a Dan Nelson Suzuki line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$750,000.00 line of credit; to provide floor-planning for the DNAG Suzuki car inventory; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Bank as First American Bank & Trust.
- e. Dan Nelson Auto Group, Inc (DNAG) d/b/a Dan Nelson Hyundai line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$2,000,000.00 line of credit; to provide floor-planning for the DNAG Hyundai car inventory; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Bank as Pioneer Bank & Trust.
- f. Dan Nelson Auto Group, Inc (DNAG) d/b/a Dan Nelson Isuzu line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$1,100,000.00 line of credit; to provide floor-planning for the DNAG Isuzu car inventory; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Bank as Deerfield Bank.
- g. Dan Nelson Auto Group, Inc (DNAG) d/b/a Dan Nelson Mazda line of credit; renewed under the Master Loan Agreement on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$2,000,000.00 line of credit; to provide floor-planning for the DNAG

Mazda car inventory; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partial funding provided by First Federal Savings Bank (MetaBank); with the Participant Bank as Cedar Rapids Bank & Trust.

- h. Victory Properties, LLC – loan; by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN; as a term loan in the amount of \$3,140,000.00; to fund improvements for DNAG/SDAC-related property in Des Moines, Iowa, Sioux Falls, South Dakota, and regarding E Car Care; guaranteed by DNAG, SDAC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partially funded by First Federal Savings Bank of the Midwest (MetaBank); with the Participant Banks as Home Federal Bank (at initiation of the loan), MidCountry Bank (First Federal Bank (FSB)) and Pioneer Bank.
- i. Victory Properties, LLC – loan; by defendant DANIEL A. NELSON; as a term loan in the amount of \$46,000.00; to fund improvements for DNAG/SDAC-related property in Council Bluffs, Iowa; guaranteed by DNAG, SDAC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; partially funded by First Federal Savings Bank of the Midwest (MetaBank).
- j. Dan Nelson Auto Group, Inc (DNAG) – Insurance Loan; by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN as a \$1,000,000.00 five-year term loan; to provide whole-life insurance for DNAG key personnel – defendants NELSON and TAPKEN; guaranteed by SDAC, Victory Properties LLC, Auto Movers USA, defendant DANIEL A. NELSON personally, and defendant CHRISTIAN J. TAPKEN personally; funding provided by MetaBank.

19. First Federal Savings Bank of the Midwest (MetaBank) was, under Federal lending regulations, required to enter into agreements with various other banks to fund part of the increasing demands for money from DNAG, SDAC and Victory Properties, LLC. These other banks were known in this lending relationship as Participant Banks.

20. Defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN made representations, including in particular the nature of the vehicle sales and collection businesses, their association with JD Byrider and CNAC, their claimed unique marketing strategy, and their profitability and low borrowing risk, to First Federal Savings Bank of the Midwest (MetaBank) to serve as an inducement for First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks to enter into and remain in the lending relationship, and to make advances under the various lines of credit and term loans.

21. The defendants specifically promoted their business by claiming, among other claims, that they:

- 21.1 targeted a large and growing part of the car consumer market, those with substantial credit difficulties – the “sub-prime market” (JD Byrider/CNAC) and later also the “marginal market” (Dan Nelson Finance Super Centers);
- 21.2 reduced risk, including to the banks lending money to them, by strict underwriting, including “face-to-face” gathering of thorough and verified credit information and detailed budget analysis regarding all consumers, including use of the Promax System, and putting customers in a vehicle purchase contract which was a good fit for the customer’s ability to pay;
- 21.3 reduced risk, including to the banks lending to them, by selling vehicles at a good contract price, that is, at an appropriate contract price in comparison to the actual value of the vehicle;
- 21.4 reduced risk, including to the banks lending to them, by means of the exceptional quality and reliability of information input into and then provided by the JD Byrider Computer System and the ADP information system;

- 21.5 offered consumers a “Customer for Life” opportunity, including:
- a. initial attraction by putting consumers who could not otherwise qualify to purchase a vehicle, in a vehicle; by offering mechanically sound vehicles, and by offering a good and honored warranty on the vehicles;
 - b. a Program by which they helped the “sub-prime” consumers restore their credit, even to the point of qualifying for a home mortgage;
 - c. through the “vertical integration” of the JD Byrider sales, Finance Super Center sales, and new car sales, offered consumers an opportunity to advance as customers from high mileage, lower value vehicles (the “farm system”), to higher value, lower mileage used vehicles, to new vehicles, including early pay-off opportunities.

22. The Participant Banks relied upon these representations made and caused to be made by defendants NELSON and TAPKEN to enter into and remain in the lending relationship.

23. One or more of the Participant Banks, in particular First Indiana Bank, had prior knowledge of the JD Byrider system.

24. On occasion, the defendants, in particular defendant NELSON, dealt directly with one or more of the Participant Banks, especially First Indiana Bank and Home Federal Bank.

25. To secure all of the lines of credit and term loans, the various assets of DNAG, SDAC and Victory Properties, LLC were cross-collateralized, that is, the assets of each and all of the three corporations borrowing under these lines of credit and term loans secured each and all of the lines of credit and term loans.

26. At all times material to this Indictment, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN knew that First Federal Savings Bank of the Midwest (MetaBank) was

selling part of the loans between First Federal Savings Bank of the Midwest (MetaBank) and DNAG, SDAC and Victory Properties, LLC, to the Participant Banks.

27. The Participant Banks included:

- • Exchange State Bank, located in Adair and Winterset, Iowa, in the Southern District of Iowa;
- Guthrie County State Bank, located in Guthrie Center and Panora, Iowa, in the Southern District of Iowa;
- MetaBank West Central (successor to Security State Bank), at all times material to this Indictment located in Stuart, Iowa, in the Southern District of Iowa;
- First Indiana Bank, located in Indianapolis, Indiana;
- Cedar Rapids Bank & Trust, located in Cedar Rapids, Iowa;
- Deerfield Bank (First Midwest), located in Sioux Falls, South Dakota;
- First Premier Bank, located in Sioux Falls, South Dakota;
- Home Federal Bank, located in Sioux Falls, South Dakota;
- First American Bank and Trust, Sioux Falls, South Dakota;
- Pioneer Bank and Trust, located in Spearfish, South Dakota;
- MidCountry Bank (First Federal FSB), Hastings, Minnesota; and
- North American Banking Company, located in Roseville, Minnesota.

28. Each and all of the Participant Banks were at all times material to this Indictment insured by the Federal Deposit Insurance Corporation (FDIC), regulated by a federal regulatory agency, and otherwise qualified as a federal financial institution under Title 18, United States Code, Sections 1344 and 20.

29. Pursuant to the terms of the Participation Certificate and Agreement entered into between each of the Participant Banks and First Federal Savings Bank of the Midwest (MetaBank), the loan participation of each and all of the Participant Banks was cross-collateralized, that is, secured by all of the assets of DNAG, SDAC and Victory Properties, LLC.

30. Pursuant to the terms of the Participation Certificate and Agreement entered into between each of the Participant Banks and First Federal Savings Bank of the Midwest (MetaBank), the loan participation of each and all of the Participant Banks was subject to the terms and conditions of the Master Loan Agreement between DNAG, SDAC and Victory Properties, LLC, entered into at its last renewal on or about October 1, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, on behalf of the borrowers.

31. The Master Loan Agreement included various “covenants” under which the borrowers (DNAG, SDAC, Victory Properties LLC, and associated entities) were required to make timely, accurate and honest reports to First Federal Savings Bank of the Midwest (MetaBank) regarding matters deemed material to the lenders to continue in the lending relationship and to continue to advance money under the various lines of credit and other loans.

32. In addition to the regular financial and contract compliance reporting requirements, the defendants were, under the Master Loan Agreement, obligated to certify:

That there is no action, suit, investigation or proceeding before or by any court, governmental authority, or arbitrator pending, or to the knowledge of the Borrowers and Guarantors, threatened against or affecting Borrowers or Guarantors, that would, if adversely determined, have a material adverse effect on its business, condition (financial or otherwise), operations, prospects or properties of Borrowers or Guarantors or the ability of Borrowers or Guarantors to pay and perform the Obligations. There are no outstanding judgments against Borrowers or Guarantors.

33. The Master Loan Agreement further required of the defendants as Borrowers, and for and on behalf of DNAG and SDAC as Borrowers, as follows:

No statement, information, report, representation or warranty made by Borrower in this Agreement or in any other Loan Document or furnished to Lender in connection with this Agreement or in any of the transactions contemplated hereby contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein not misleading. There is no fact known to any Borrower which has a material adverse effect, or which might in the future have a material adverse effect, on the business, condition (financial or otherwise), operations, prospects or properties of any Borrower that has not been disclosed in writing to Lender.

34. Through the history of the borrowing relationship between DNAG and SDAC and First Federal Savings Bank of the Midwest (MetaBank), the required Reports came to include certifications by company officers, usually defendants NELSON and TAPKEN, regarding the overall condition of the companies and also more particularly regarding the condition of each the sub-prime used car inventory, sales and receivables; the higher-value used cars; and the new cars.

35. The Master Loan Agreement came to require DNAG and SDAC to report regarding each of the three types of car sales (sub-prime used cars, other used cars, new cars) on a separate form for each type of car sales. The form was entitled "Borrowing Base Certificate".

36. The Borrowing Base Certificates were particularly material to the lenders (First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks), as the Borrowing Base Certificates reflected, among other material items, the eligible loan amounts for the various DNAG and SDAC lines of credit as determined under the Master Loan Agreement. In particular

part, the Borrowing Base Certificates were used to determine, respectively for DNAG or SDAC lines of credit, the inventory base against which DNAG was eligible to borrow, and the receivables base against which SDAC was eligible to borrow.

37. In each of the monthly, annual or funds-advance-request Reports, DNAG and SDAC were required to present documentation in support of each Borrowing Base Certificate submitted in each Report. This supporting documentation included, among other documentation, reports which were to be drawn from the businesses' computerized accounting system, especially regarding SDAC. In particular, this summary of consumer loans held by SDAC stated the "delinquency" and the "recency" of loan payments by the purchasers.

38. At all times material to this Indictment, either defendant DANIEL A. NELSON or defendant CHRISTIAN J. TAPKEN, specifically by his respective signature, certified the information reported to the banks in each of the monthly or annual Reports.

39. In addition to the Borrowing Base Certificates and their supporting documentation, the monthly and annual reports by DNAG and SDAC to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks contained other reports in satisfaction of the Master Loan Agreement covenants, including in one form or another, "Monthly Compliance Ratios", "Balance Sheets", and "Income Statements".

40. At all times material to this Indictment, First Federal Savings Bank of the Midwest (MetaBank) relied on the reports provided by DNAG and SDAC, as certified by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, to continue in the lending relationship and to continue advancing money to DNAG, SDAC and Victory Properties LLC,

and in the further reporting by First Federal Savings Bank of the Midwest (MetaBank) to the Participant Banks.

41. At all times material to this Indictment, each and all of the Participant Banks relied on the reports provided by DNAG and SDAC, as certified by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, to continue in the lending relationship and to continue advancing money to First Federal Savings Bank of the Midwest (MetaBank) to be loaned to DNAG, SDAC and Victory Properties LLC.

42. At all times material to this Indictment, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN knew and intended that the information provided by DNAG and SDAC to First Federal Savings Bank of the Midwest (MetaBank) was being given in turn by First Federal Savings Bank of the Midwest (MetaBank) to the Participant Banks.

43. Through the course of the borrowing relationship between DNAG and SDAC as Borrowers, and First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks as Lenders, Borrowers made frequent requests for advances of money under the various Lines of Credit. These requests were ordinarily made by Dan Paulson on behalf of the Borrowers, to First Federal Savings Bank of the Midwest (MetaBank) on behalf of the Lenders. For many of these requests for advances of money, First Federal Savings Bank of the Midwest (MetaBank) relied upon one or more of the Participant Banks to fund the advance to the Borrowers.

44. To facilitate collecting from the Participant Bank or Banks the money to fund an advance to the Borrowers, First Federal Savings Bank of the Midwest (MetaBank) would

ordinarily fax or email a request for funds to the Participant Bank. If the Participant Bank agreed to make the requested advance of money, the Participant Bank would transfer the requested amount of money by wire to First Federal Savings Bank of the Midwest (MetaBank), which in turn would distribute the money to an account designated by the Borrowers, thereby accomplishing the payment to the Borrowers of the requested advance.

45. At all times material to this Indictment, First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks did not have money wire transfer capability of their own; but relied on various Correspondent Banks to transfer money to other banks, including between these Banks themselves. First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks primarily used one of the following Correspondent Banks to transfer money by wire in the borrowing relationship between DNAG, SDAC and Victory Properties, LLC by the Defendants, and First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks:

- a. Federal Home Loan Bank of Des Moines, Iowa, located in the Southern District of Iowa;
- b. Bankers Bank located in Madison, Wisconsin; and
- c. United Bankers Bank located in Bloomington, Minnesota.

46. The use of wire transfers through the Correspondent Banks described immediately above by First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks included both the funding of requests for advances of money by the Borrowers, and the payment from the Borrowers of principal and interest due on the various Lines of Credit being funded by First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks.

47. In addition to obtaining funding from First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, defendants NELSON and TAPKEN caused DNAG to obtain funding for the purchase of automobiles for resale from Automotive Finance Corporation (AFC) of Carmel, Indiana, and Manheim Automotive Financial Services (MAFS) of Atlanta, Georgia.

48. At all times material to this Indictment, AFC and MAFS provided funding directly to wholesale purchasers, such as DNAG, at various automobile auctions, and in exchange for the loaned purchase money, immediately took a security interest in each automobile purchased, as for example by DNAG, using either AFC or MAFS funds.

49. In or about 2000, as DNAG expanded into the Dan Nelson Finance Super Centers to sell used vehicles, and also entered into the sales of new vehicles, DNAG had to obtain outside funding for the consumers who purchased these vehicles from DNAG. SDAC d/b/a CNAC (Car Now Acceptance Corporation) continued to provide "in-house" financing for DNAG's buy here-pay customers, purchasing DNAG's buy-here sales accounts receivables as a captive company of DNAG.

50. DNAG entered into consumer lending agreements with various lenders under which agreements DNAG brokered loans for consumers purchasing DNAG vehicles.

51. At all times material to this Indictment, these consumer lenders included, among others:

- First Class Credit Union of West Des Moines, Iowa, located in the Southern District of Iowa, and Sioux City, Iowa;
- Key Bank of Westmont, Illinois;

- CPS/Sea West Finance of Irvine, California;
- First National Bank of South Dakota of Sioux Falls, South Dakota;
- Household Auto Finance of San Diego, California;
- Tidewater Finance of Chesapeake, Virginia;
- Triad Finance of Huntington Beach, California;
- United One Credit Union of Manitowoc, Wisconsin;
- Centrix of Centennial, Colorado;
- WFS Financial of Irvine, California;
- Primus Ford Motor Credit of Dearborn, Michigan;
- Capital One of McLean, Virginia;
- Bank One of Chicago, Illinois;
- Wells Fargo Financial of San Francisco, California; and
- FSB of Ft. Worth, Texas.

52. In addition to the consumer lending relationships into which DNAG entered with various institutional lenders, SDAC from time to time, beginning in or about 1993-1994, sold portions of its SDAC accounts receivable in bulk to various entities.

53. These bulk sales of SDAC receivables were made pursuant to written agreements, which in material part included “recourse provisions”, that is, conditions of non-compliance under which SDAC was obligated to buy the bulk receivables back from the financial institution which had purchased them from SDAC or allow the bulk purchaser to substitute “performing accounts receivables” for the “non-performing accounts”.

54. Among the various entities to which SDAC sold portions of its accounts receivables in bulk, were TranSouth, Household Finance, Cygnet, Mid-Atlantic, Seawest Financial, Tidewater Motor Credit, EMCC, and FSB.

55. At all times material to this Indictment, defendants reported or caused DNAG and SDAC employees to report to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks the bulk sales of SDAC receivables. However, defendants did not report or

cause to be reported to the Banks the recourse-mandated cash repurchase and substitution of SDAC loan accounts regarding substantial amounts of said receivables.

56. As a result of the fraudulent actions and omissions of defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, more fully described below, First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks lost an estimated \$21,000,000.00.

THE GRAND JURY FURTHER CHARGES:

**Count 1
(Conspiracy to Commit Bank Fraud)
(18 U.S.C., Section 1349)**

1. The Grand Jury realleges paragraphs 1-56 of the Introductory Allegations as though fully set forth herein.
2. Beginning in or about 1997, and continuing to in or about 2005, the specific dates to the Grand Jury unknown, in the Southern District of Iowa and elsewhere, the defendants, DANIEL A. NELSON and CHRISTIAN J. TAPKEN, did unlawfully, willfully and knowingly combine, conspire, confederate and agree with each other and with other persons known and unknown to the Grand Jury, to commit bank fraud, that is, to knowingly and willfully, by means of materially false and fraudulent pretenses, representations, and promises, obtain any of the monies, funds, credits, assets, securities or other property owned by, or under the custody or control of one or more financial institutions, that is, First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks forming a banking consortium to loan monies and extend lines of credit to DNAG, SDAC, Victory Properties, LLC, and associated entities as operating

funds, to obtain inventory and for associated purposes, which is a violation of Title 18, United States Code, Section 1344.

Manner and Means

3. It was a part of the conspiracy that in or about 1997, defendant DANIEL A. NELSON, and Dan Paulson, began to knowingly and intentionally submit fraudulent reports to First Federal Savings Bank of the Midwest (MetaBank). This fraudulent reporting was initially accomplished by means of temporarily changing individual consumer loan due dates in the DNAG and SDAC computer system, and thereby producing false reports for First Federal Savings Bank of the Midwest (MetaBank). From this beginning, and continuing thereafter throughout the remainder of the borrowing relationship with First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, up to in or about June of 2005, defendant DANIEL A. NELSON, later joined in the conspiracy by defendant CHRISTIAN J. TAPKEN, and aided by Dan Paulson, expanded the methods of falsifying information provided by DNAG and SDAC to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, including, among others, those methods described below.

4. **Editing of Due Dates.** It was a part of the conspiracy that beginning in or about 1997, and continuing to in or about April of 2003, defendant DANIEL A. NELSON, joined in by defendant CHRISTIAN J. TAPKEN in or about 1999 or 2000 and thereafter, did themselves fraudulently alter and did cause Dan Paulson and other DNAG and SDAC personnel to fraudulently alter individual consumer payment “due dates” regarding consumer loan contracts of SDAC in the DNAG/SDAC computerized information system, thereby fraudulently modifying

the payment delinquency report prepared by DNAG/SDAC for First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, and thereafter to deliver said fraudulently modified reports to the banks. While the editing of due dates began in 1997, the practice was sporadic until in or about August of 2002, at which time the practice became a monthly event, until the practice ended in or about April of 2003, being replaced in or about December of 2003 with the altering of delinquency numbers in the summary report form, referred to in paragraph No. 6 of the Manner and Means of the Conspiracy, below .

5. **Recency.** It was a part of the conspiracy that beginning in or about May of 2003, and continuing to in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN altered “recency dates”, and directed and caused Dan Paulson to fraudulently alter “recency dates” regarding consumer loan contracts of SDAC, thereby fraudulently modifying the payment recency report prepared by DNAG/SDAC for First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, and thereafter to deliver said fraudulently modified reports to the banks. Among other items substantially affecting the fraudulent alteration of recency numbers was the failure to report recourse transactions regarding the bulk sales of SDAC accounts receivable.

6. **Delinquency.** It was a part of the conspiracy that beginning in or about December of 2003, and continuing to in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, and Dan Paulson fraudulently altered delinquency numbers directly in the SDAC consumer loans summary report, that is, without editing individual consumer loan due dates as referred to in paragraphs 3 and 4 of the Manner and Means of the

Conspiracy, above. Defendants and Dan Paulson accomplished this by using a fraudulent “look alike report”, which appeared to be a genuine computer generated report from the businesses’ computer systems. Defendants caused Dan Paulson to deliver said fraudulently modified summary reports to the banks as part of the regular monthly, year end, and periodic loan-advance-request reports to the Banks.

7. **Receivables.** It was a part of the conspiracy that beginning in or about October to November of 2004, and continuing to in or about June of 2005, defendant CHRISTIAN J. TAPKEN and, either initially or later joined by defendant DANIEL A. NELSON, and Dan Paulson agreed to and did fraudulently alter receivables numbers and total loan numbers in the reports to the banks, in that they used fictitious numbers in the reports to the banks, that is, Dan Paulson at the direction of defendants CHRISTIAN J. TAPKEN and DANIEL A. NELSON, “made up” a total dollar-number of receivables according to how much money DNAG needed to borrow and still appear to stay “in covenant”. Defendants caused Dan Paulson to deliver said fraudulent reports to the Banks.

8. **Compliance Ratios, Balance Sheets and Income Statements.** It was a part of the conspiracy that beginning with the fraudulent alteration of any of the reporting numbers regarding any of what came to be the Borrowing Base Certificates, the corresponding numbers in the Compliance Ratios, Balance Sheets, and Income Statements, as reported to the Banks, were also fraudulently reported. In any event, no later than in or about mid-Summer of 2004, but perhaps as early as 2003, defendants fraudulently altered and caused Dan Paulson to fraudulently

alter numbers in the Compliance Ratios, Balance Sheets and Income Statements reported to the Banks.

9. **Double Pledging of Inventory.** It was a part of the conspiracy that beginning in or about the Spring of 2004, and perhaps as early as in or about the latter part of 2003, and continuing to in or about June of 2005, defendant DANIEL A. NELSON and defendant CHRISTIAN J. TAPKEN, double pledged vehicle inventory, that is, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN fraudulently misrepresented in reports to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, the used vehicle inventory that was secured as a first security interest by the Bank consortium, with defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN knowingly and willfully having caused DNAG to have previously pledged said vehicles as a first security to MAFS and AFC. Throughout the carrying out of the double pledging of inventory, the fraudulent misrepresentation was accomplished by various means, including, but not necessarily limited to:

- 9.1 causing DNAG and SDAC personnel, including Dan Paulson, at times, to delete from reports to the Banks, while maintaining in the internal DNAG and SDAC computer system, the column of the report which showed a code representing to which funding source the vehicle was pledged as security, First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, or AFC or MAFS;
- 9.2 in reports which contained the column which showed a code representing to which funding source the vehicle was pledged as security, causing DNAG and SDAC personnel to fraudulently alter the code number for various vehicles to show that the vehicle was pledged as security to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, when in fact the vehicles were pledged to AFC or MAFS;

- 9.3 causing DNAG and SDAC personnel to fraudulently alter the “unfunded vehicle report” by falsely adding funded vehicles thereto;
- 9.4 causing, by fraudulently altering the unfunded vehicle report, the intentional and fraudulent alteration of the total cost of vehicles eligible to be borrowed against by DNAG from First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks as set forth in the DNAG Used Vehicle Borrowing Base Certificate; and
- 9.5 causing DNAG and SDAC personnel to stop attaching inventory reports to requests for advances of money.

10. **Business Model and Borrowing Risk.** It was a part of the conspiracy that beginning in or about 2000 with the advent of the Dan Nelson Finance Super Centers, and continuing to in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN knowingly and willfully, and with willful blindness, fraudulently misrepresented to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks:

- 10.1 That defendants were following the “nationally proven” JD Byrider business model;
 - a. whereas defendants NELSON and TAPKEN substantially deviated from the JD Byrider business model, including among other items, with regard to size and manner of operation, and with regard to consumer practices.
- 10.2 That DNAG and SDAC engaged in strict underwriting of vehicle loans, including the gathering of thorough and verified credit information and detailed budget analysis concerning all customers;
 - a. whereas defendants NELSON and TAPKEN approved “non-qualifying loans” and caused employees of DNAG and SDAC to approve “non-qualifying loans” and to fail to collect needed information and verification of consumer creditworthiness;

- b. and whereas defendants NELSON and TAPKEN caused DNAG and SDAC employees to enter into loan agreements with consumers which placed the consumer at a substantial disadvantage regarding the difference between the actual value of the vehicle purchased by the consumer, and the cost of the purchase contract to the consumer;
- 10.3 That the SDAC accounts receivable were an exceptional borrowing base in that the SDAC accounts receivable could be sold in bulk for “\$.80 to \$.82 versus approximately \$.67 lent by the bank group against the contracts”.
 - a. Whereas, adjusting for the unreported substantial recourse on the bulk sales of SDAC account receivables, the SDAC account receivables did not provide the claimed liquidity or exceptional borrowing base.
- 10.4 That DNAG and SDAC had a “great” information system in the JD Byrider computer system and the ADP information system, producing information of high quality upon which lenders could rely;
 - a. whereas defendants NELSON and TAPKEN themselves fraudulently circumvented and caused other DNAG and SDAC employees to fraudulently circumvent the systems by inputting false information and by creating false reporting forms containing false information – including, but not limited to delinquency; recency; receivables; “stipulations” required by outside consumer lenders (e.g., residency, employment, or income standards and verification); and claiming the collection of a down payment regarding consumer sales, including recording such in the consumer purchase contract entered into for the outside lending agency, when no down payment, only a partial down payment, or a deferred down payment was made.
- 10.5 That DNAG and SDAC worked under the primary guideline of serving the customer well, thereby producing success for the businesses, including selling mechanically sound vehicles subject to a good and honored warranty;
 - a. whereas defendants NELSON and TAPKEN caused DNAG and SDAC to often sell mechanically unsound vehicles, and sold customers warranties at a substantially inflated cost, which DNAG and SDAC often did not honor;

- 10.6 That DNAG and SDAC offered consumers a “Program” by which DNAG and SDAC helped customers improve their credit;
- a. whereas defendants NELSON and TAPKEN caused DNAG and SDAC not to offer a special “Program” to improve consumers’ credit, and did by their sales and collection practices often further damage the consumer’s credit, as defendants’ caused DNAG and SDAC employees to often enter consumers into purchase contracts which the consumers could not afford;
- 10.7 That DNAG and SDAC, through its “vertical integration” of “JD Byrider vehicles”, “Finance Super Center vehicles”, and new vehicles, offered customers an opportunity to advance in ownership;
- a. whereas defendants NELSON and TAPKEN by the sales, financing and collection methods defendants caused DNAG and SDAC employees to practice, encouraging consumers to enter into purchase contracts which the consumers could not afford, thereby denied these customers the opportunity to advance through the DNAG/SDAC hierarchy of vehicles.

11. **Iowa Attorney General’s Enforcement Action.** It was a part of the conspiracy that defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, beginning in and about October of 2004, and continuing until in or about July of 2005, lulled First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks into continuing to loan money under the lines of credit and term loans, not withdrawing from the lending agreements, and not declaring default, by knowingly and willfully, and with willful blindness, fraudulently misrepresenting and causing other DNAG and SDAC employees to misrepresent to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks:

- 11.1 the nature, status, and possible outcome of the Iowa Attorney General’s civil enforcement action, which was initiated with the service of Civil Investigative Demands upon DNAG and SDAC in or about September of 2004, and pursued by the civil enforcement action filed in January of 2005, in the District Court of the State of Iowa in and for Polk County; and

- 11.2 that the Iowa Attorney General's action was the cause of dramatic downward turns in DNAG and SDAC business and adjustments in numbers being reported to the Banks in the Monthly Financial and Compliance Reports.

Overt Acts

12. In furtherance of the conspiracy, and to achieve its objects, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, knowingly and willfully committed and caused to be committed the following overt acts, among others, in the Southern District of Iowa and elsewhere, beginning in or about May of 1997, and continuing to in or about June of 2005.

12.1 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, submitted regular monthly financial and compliance reports to First Federal Savings Bank of the Midwest (MetaBank) in justification of the continued borrowing relationship between DNAG, SDAC, and Victory Properties, LLC, and First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks. Said reports included, but were not limited to, reports dated as follows, each submitted to First Federal Savings Bank of the Midwest (MetaBank) within approximately 30 to 60 days after the date of the respective report:

- a. January 31, 2002
- b. February 28, 2002
- c. March 31, 2002
- d. April 30, 2002
- e. May 31, 2002
- f. June 29, 2002
- g. July 31, 2002
- h. August 31, 2002
- i. September 30, 2002
- j. October 31, 2002

- k. November 20, 2002
- l. December 31, 2002
- m. January 31, 2003
- n. February 28, 2003
- o. March 31, 2003
- p. April 30, 2003
- q. May 30, 2003
- r. June 30, 2003
- s. July 31, 2003
- t. August 31, 2003
- u. September 30, 2003
- v. October 31, 2003
- w. November 30, 2003
- x. December 31, 2003
- y. January 31, 2004
- z. February 29, 2004
- aa. March 31, 2004
- bb. April 30, 2004
- cc. May 31, 2004
- dd. June 30, 2004
- ee. July 31, 2004
- ff. August 31, 2004
- gg. September 30, 2004
- hh. October 31, 2004
- ii. November 30, 2004
- jj. December 31, 2004
- kk. January 31, 2005
- ll. February 28, 2005
- mm. March 31, 2005
- nn. April 30, 2005

12.2 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, caused the mailing of regular monthly financial statements and compliance reports by First Federal Savings Bank of the Midwest (MetaBank) to the Participant Banks. Said reports were routinely mailed to the Participant Banks by First Federal Savings Bank of the Midwest

(MetaBank) within one week of receipt of said reports by First Federal Savings Bank of the Midwest (MetaBank) from defendants NELSON and TAPKEN, assisted by Dan Paulson. Said reports included, but were not limited to those reports listed in paragraphs 12.1(a) to 12.1(nn), immediately above, which paragraphs are by this reference incorporated herein.

12.3 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, at various times submitted to First Federal Savings Bank of the Midwest (MetaBank) written requests for advances of money to DNAG and SDAC under the various lines of credit. These requests came to routinely include both a written request incorporating items from the Borrowing Base Certificate and an accompanying Customer Delinquency Report. These requests for advances of funds included, among others, requests described as follows:

- a. Request of December 27, 2004, by Daniel Paulson, for \$300,000.00, on the SDAC Line of Credit
- b. Request of January 11, 2005, by Daniel Paulson, for \$650,000.00, on the SDAC Line of Credit
- c. Request of January 18, 2005, by Daniel Paulson, for \$400,000.00, on the SDAC Line of Credit
- d. Request of February 4, 2005, by Daniel Paulson, for \$300,000.00, on the SDAC Line of Credit
- e. Request of February 15, 2005, by Daniel Paulson, for \$600,000.00, on the SDAC Line of Credit
- f. Request of February 17, 2005, by Daniel Paulson, for \$150,000.00, on the SDAC Line of Credit

- g. Request of March 4, 2005, by Daniel Paulson, for \$350,000.00, on the SDAC Line of Credit
- h. Request of March 16, 2005, by Daniel Paulson, for \$600,000.00, on the SDAC Line of Credit
- i. Request of March 31, 2005, by Daniel Paulson, for \$600,000.00, on the SDAC Line of Credit
- j. Request of April 4, 2005, by Daniel Paulson, for \$300,000.00, on the SDAC Line of Credit
- k. Request of April 8, 2005, by Daniel Paulson, for \$150,000.00, on the SDAC Line of Credit
- l. Request of April 11, 2005, by Daniel Paulson, for \$150,000.00, on the SDAC Line of Credit
- m. Request of April 25, 2005, by Daniel Paulson, for \$590,000.00, on the SDAC Line of Credit

12.4 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, caused various wire communications (i.e., facsimiles or emails) to be sent by First Federal Bank of the Midwest (MetaBank) to the Participant Banks requesting advances to be paid to DNAG and SDAC under the various lines of credit. Said requests for advances included, among others, requests resulting in the wiring of money described in paragraphs 12.6(a) and 12.6(b)(1) - (101), inclusive, below, by this reference incorporated herein.

12.5 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, caused First Federal Savings Bank of the Midwest (MetaBank) to pay to DNAG and SDAC many advances of money under the various lines of credit.

- a. For example, under the SDAC Line of Credit, between in or about July of 2002, and in or about April of 2005, First Federal Savings Bank of the Midwest (MetaBank) made at least 98 advances of money to SDAC.
- b. For example, under the DNAG Used Car Line of Credit, between in or about July of 2002, and in or about May of 2005, First Federal Savings Bank of the Midwest (MetaBank) made at least 60 advances of money to DNAG.
- c. For example, under the DNAG d/b/a Dan Nelson Subaru Line of Credit, between in or about October of 2003, and in or about June of 2005, First Federal Savings Bank of the Midwest (MetaBank) made at least 70 advances of money to DNAG.
- d. First Federal Savings Bank of the Midwest (MetaBank) also made many advances to DNAG under the Hyundai Line of Credit, the Isuzu Line of Credit, the Mazda Line of Credit, the Suzuki Line of Credit, and advanced money under the Victory Property, LLC term loans and the NELSON and TAPKEN life insurance loan.

12.6 Between in or about May of 1997, and in or about June of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, assisted by Dan Paulson, caused the Participant Banks to send various wire communications (i.e., wire transfers of money) to pay advances of money to First Federal Savings Bank of the Midwest (MetaBank) for and on behalf of DNAG and SDAC, without which First Federal Savings Bank of the Midwest (MetaBank) could not have advanced monies to DNAG and SDAC.

- a. Examples of said Participant Bank wire transfers of advances to First Federal Savings Bank of the Midwest (MetaBank) for and on behalf of DNAG and SDAC, included:
 - (1) five (5) advances in or about November of 2004 by Cedar Rapids Bank & Trust;

(2) forty six (46) advances from in or about February of 1998, to in or about April of 2005, by Home Federal Bank;

b. Said advances of money by wire transfer by the Participant Banks more specifically included, among others, the following, each from the designated Originating Bank, by means of the designated Correspondent Bank, to First Federal Savings Bank of the Midwest(MetaBank) in Storm Lake, Iowa:

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
1.	02/13/02	\$300,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
2.	02/15/02	\$100,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
3.	02/21/02	\$500,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
4.	03/04/02	\$250,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
5.	03/11/02	\$275,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
6.	03/13/02	\$300,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
7.	03/18/02	\$300,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
8.	03/19/02	\$500,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
9.	03/26/02	\$375,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
10.	03/29/02	\$200,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
11.	04/05/02	\$200,000	First Indiana Bank Indianapolis, IN	FHLB Des Moines, IA
12.	04/05/02	\$ 25,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
13.	08/20/02	\$700,000	Guthrie County StB Panora, IA	Bankers Bank Madison, WI
14.	09/11/02	\$800,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
15.	11/06/02	\$100,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
16.	01/10/03	\$200,000	Guthrie County StB Panora, IA	Bankers Bank Madison, WI
17.	01/16/03	\$150,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
18.	01/17/03	\$450,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
19.	01/17/03	\$200,000	Guthrie County StB Panora, IA	Bankers Bank Madison, WI
20.	01/21/03	\$300,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
21.	01/22/03	\$350,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
22.	01/24/03	\$350,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
23.	03/06/03	\$200,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
24.	03/31/03	\$675,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
25.	04/02/03	\$100,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
26.	04/02/03	\$650,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
27.	04/04/03	\$350,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
28.	06/19/03	\$250,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
29.	06/19/03	\$150,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
30.	08/12/03	\$150,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
31.	08/21/03	\$475,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
32.	09/09/03	\$360,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
33.	09/12/03	\$ 50,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
34.	09/17/03	\$300,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
35.	10/02/03	\$425,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
36.	10/03/03	\$290,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
37.	10/08/03	\$1,500,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
38.	10/31/03	\$500,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
39.	12/09/03	\$500,000	First Indiana Bank Sioux Falls, SD	FHLB Des Moines, IA
40.	12/15/03	\$400,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
41.	12/30/03	\$250,000	Exchange State Bank Adair, IA	FHLB Des Moines, IA
42.	01/06/04	\$150,000	Exchange State Bank Adair, IA	FHLB Des Moines, IA
43.	03/10/04	\$300,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
44.	03/24/04	\$100,000	Exchange State Bank Adair, IA	FHLB Des Moines, IA
45.	04/07/04	\$250,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
46.	04/08/04	\$100,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
47.	04/23/04	\$150,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
48.	05/05/04	\$300,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
49.	06/17/04	\$300,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
50.	08/18/04	\$250,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
51.	08/24/04	\$150,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
52.	09/03/04	\$100,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
53.	10/04/04	\$200,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
54.	10/04/04	\$1,000,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
55.	10/12/04	\$1,000,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
56.	10/28/04	\$350,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
57.	10/29/04	\$250,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
58.	11/04/04	\$200,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
59.	11/09/04	\$300,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
60.	11/09/04	\$340,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
61.	11/10/04	\$200,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
62.	11/10/04	\$300,000	Guthrie County SB Panora, IA	Bankers Bank Madison, WI

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
63.	11/15/04	\$300,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
64.	11/15/04	\$475,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
65.	11/19/04	\$150,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
66.	11/23/04	\$300,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
67.	11/23/04	\$550,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
68.	12/02/04	\$100,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
69.	12/06/04	\$1,400,000	North American B. Roseville, MN	FHLB Des Moines, IA
70.	12/13/04	\$200,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
71.	12/21/04	\$300,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
72.	12/21/04	\$200,000	Guthrie County SB Panora, IA	Bankers Bank Madison, WI
73.	12/28/04	\$300,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
74.	12/30/04	\$250,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
75.	01/04/05	\$100,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
76.	01/11/05	\$650,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
77.	01/18/05	\$450,000	First Premier Bank Sioux Falls, SD	FHLB Des Moines, IA
78.	01/26/05	\$275,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
79.	02/04/05	\$ 50,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
80.	02/04/05	\$300,000	North American B. Roseville, MN	FHLB Des Moines, IA
81.	02/15/05	\$350,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
82.	02/15/05	\$200,000	Exchange State Bank Adair, IA	FHLB Des Moines, IA
83.	02/16/05	\$ 50,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
84.	02/16/05	\$ 75,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
85.	02/17/05	\$ 75,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
86.	03/04/05	\$125,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
87.	03/04/05	\$225,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
88.	03/04/05	\$125,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA

<u>Item</u>	<u>Date</u>	<u>Amount</u>	<u>Originating Bank</u>	<u>Correspondent Bank</u>
89.	03/10/05	\$700,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
90.	03/10/05	\$125,000	Pioneer Bank&Trust Sioux Falls, SD	FHLB Des Moines, IA
91.	03/16/05	\$600,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
92.	03/31/05	\$600,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
93.	03/31/05	\$100,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
94.	04/04/05	\$ 50,000	North American B. Roseville, MN	FHLB Des Moines, IA
95.	04/05/05	\$250,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
96.	04/08/05	\$125,000	MidCountry Bank Hutchinson, MN	FHLB Des Moines, IA
97.	04/18/05	\$150,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
98.	04/26/05	\$ 18,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA
99.	04/27/05	\$590,000	Home Federal Bank Sioux Falls, SD	FHLB Des Moines, IA
100.	04/27/05	\$360,000	Pioneer Bank&Trust Spearfish, SD	FHLB Des Moines, IA
101.	05/16/05	\$150,000	Deerfield Bank Sioux Falls, SD	FHLB Des Moines, IA

12.7 From the beginning of the borrowing relationship between DNAG and SDAC and First Federal Savings Bank of the Midwest, but especially from the initiation of the Dan Nelson Finance Super Centers in or about 2000, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN misrepresented the businesses to First Federal Savings Bank of the Midwest and the Participant Banks through a series of in-person, oral and written communications, including, but not limited to the following:

- a. Representations made by defendant DANIEL A. NELSON in the “2002-2003 Funding Request by Dan Nelson Automotive Group Presented to Mr. [BB], Senior Loan Officer First Federal Savings Bank of the Midwest”, on or about May 30, 2002, including, among other representations, references to the advancement of customers through the DNAG vehicle hierarchy and the improvement of customers’ credit;
- b. Representations made by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN in the “Dan Nelson Automotive Group, Inc. Presentation to [TH], President First Federal Savings Bank of the Midwest and [DS], First National Bank of Omaha” and its oral presentation, on or about August 29, 2002, regarding, among other representations, that SDAC (CNAC) “completes and verifies all customer credit information and performs detailed budget analysis”, bases loan decision on “excess cash in budget analysis (ability to pay) . . .”, and other references regarding establishing customer creditworthiness;
- c. Representations made by defendant DANIEL A. NELSON in the “Banking Proposal for First Federal Savings Bank of the Midwest for 2003/2004”, on or about June 10, 2003, regarding, among other representations, referring to “. . . meet[ing] our time tested J. D. Byrider underwriting guidelines”, improving credit ratings of customers, and having customers advance through the DNAG vehicle hierarchy, and also referring to sale of receivables.

- d. Representations made by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN in the power point presentation made to First Federal Savings Bank of the Midwest on or about January 12, 2004, "Business Recap and Year End Review", including, among other representations, reference to "Customers for Life philosophy, "Our customers' interest always comes first . . . success will follow", advancement of customers through the DNAG vehicle hierarchy, great computer systems, ADP system, "delinquency and charge-off".
- e. Representations made by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN in the materials reported to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks in furtherance of the June 8, 2004, Annual Review of DNAG, SDAC and Victory Properties, LLC Credit Approval Request.

12.8 Defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN

issuing various written and oral directives to DNAG and SDAC personnel regarding the sales approach to be used regarding consumers, including, among others:

- a. Defendants issuing to and providing training and policy direction to DNAG and SDAC personnel in or before 1997, and continuing thereafter regarding the "customer flip book" used by DNAG sales personnel at the various company sales centers, emphasizing defendants' "Customer for Life" Program, including "establish[ing] or rebuild[ing] good credit"; "providing a clean, quality automobile"; develop[ing] an affordable payment plan to meet you(sic) budget"; and "the best possible service after the sale";

12.9 From in or about October of 2004, and continuing through in or about March of 2005, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN made false representations to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks regarding the true nature of the allegations, status of negotiations, and likely impact of the

actions by the Iowa Attorney General and that the actions of the Iowa Attorney General were the cause of a dramatic drop in business. The overt acts regarding these false representations include, but are not limited to:

- a. A wire transmission (i.e., email) of October 6, 2004, and persisting thereafter in said representations, from defendant DANIEL A. NELSON to personnel of First Federal Savings Bank of the Midwest (MetaBank), inaccurately describing the nature and probable impact of the Iowa Attorney General's action.
- b. A knowing and intentional decision on or about October 28, 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN not to disclose to the Banks, especially in consideration of the requirements of the Master Loan Agreement, the receipt of a "cease and desist" demand from the Iowa Attorney General's Office on or about October 28, 2004; and the subsequent intentional failure by defendants to disclose said demand.
- c. A knowing and intentional decision in or about November of 2004, by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN not to disclose to the Banks, especially in consideration of the requirements of the Master Loan Agreement, the current status and potential seriousness of the Iowa Attorney General's investigation and threatened court action, especially following communication with the Iowa Attorney General's Office by defendants' then attorney on or about November 3, 2004; and the subsequent intentional failure by defendants to disclose the accurate status and potential seriousness of the Iowa Attorney General's action as described in the November 3, 2004 communication of defendants' then attorney with the Iowa Attorney General.
- d. A wire transmission (i.e., email) of January 10, 2005, from defendant DANIEL A. NELSON to personnel of First Federal Savings Bank of the Midwest (MetaBank) with an attached letter from defendants NELSON's and TAPKEN's then attorneys regarding the filing of a formal civil action in the District Court of Iowa in and for Polk County and its claimed probable impact on DNAG and SDAC.

- e. Defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN causing a wire transmission (i.e., email) on or about January 10, 2005, from personnel of First Federal Savings Bank of the Midwest (MetaBank) to the Participant Banks with the attached letter from defendants, NELSON's and TAPKEN's, attorneys regarding the filing of a formal civil action in the District Court of Iowa in and for Polk County and its claimed probable impact on DNAG and SDAC.
- f. A wire transmission (i.e., telephone) of on or about March 22 2005, from defendant DANIEL A. NELSON, to personnel of Home Federal Bank of Sioux Falls, South Dakota, continuing to represent that the Iowa Attorney General's action was not serious and would soon be resolved without disadvantage to DNAG and SDAC, including some specific false representations regarding actions in the pending Iowa Attorney General's court action in Polk County, Iowa.
- g. Representation by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN in the December 31, 2004 Monthly Financial and Compliance Report, with a cover memo dated January 25, 2005, and last certified by defendant NELSON on January 31, 2005, that they anticipated that the Iowa Attorney General's Complaint filed in the first week of January would be resolved by the second quarter of 2005.
- h. Representations made by defendant DANIEL A. NELSON in the March 31, 2005 Monthly Financial and Compliance Report to First Federal Savings Bank of the Midwest and the Participant Banks that "We have an exact month by month game plan for April to Dec. for all covenants to be in line by end of year – or day we settle with the Iowa AG"; the "Actual Minimum Current Ratio" was raised "Due to aggressive Iowa AG action – we raised bad debt reserve causing this decline"; and that "loss in March caused this decline", in reference to the "Actual Debt Service Coverage Ratio".
- i. Representation by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN in the April 30, 2005 Monthly Financial and Compliance Report to First Federal Savings Bank of the Midwest and the Participant Banks that the compliance difficulties of DNAG and SDAC were due only to the action of the Iowa Attorney General.

12.10 On or about October 1, 2004, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN caused First Federal Savings Bank of the Midwest to send participation agreements to the Participant Banks by means of wire communications (i.e., facsimiles) for the purpose of renewing and extending said banks' participation in the various lines of credit for DNAG and SDAC.

12.11 On or about October 4, 2004, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, for and on behalf of DNAG, SDAC and Victory Properties, LLC, entered into a renewal of the Master Loan Agreement with First Federal Savings Bank of the Midwest (MetaBank), extending the various lines of credit and term loans to DNAG, SDAC, and Victory Properties, LLC.

12.12 On or about October 7, 2004, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, caused First Federal Savings Bank of the Midwest (MetaBank) to mail legal documents to the Participant Banks seeking the renewal of the Participant Banks in the various lines of credit and term loans for DNAG and SDAC for an additional term.

12.13 On or about October 11, 2004, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, caused Exchange State Bank to mail a signed renewal of its Participation Certificate and Agreement to First Federal Savings Bank of the Midwest (MetaBank).

12.14 Representations by Defendant DANIEL A. NELSON on or about March 22, 2005, to personnel of Home Federal Bank in Sioux Falls, South Dakota, as an inducement for Home Federal Bank to extend its lending relationship with DNAG and SDAC

through First Federal Savings Bank of the Midwest (MetaBank), that DNAG and SDAC had “secured financing” other than through First Federal Savings Bank of the Midwest (MetaBank), that is, with “Capital Sources”, when in fact DNAG and SDAC did not have an agreement for such other financing.

12.15 Disclosure by defendant CHRISTIAN J. TAPKEN and Dan Paulson as directed by defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, in or about the first week in June of 2005, with the delivery to personnel of First Federal Savings Bank of the Midwest (MetaBank) of the April 30, 2005 Monthly Financial and Compliance Report, that DNAG and SDAC had in fact been out of compliance with regard to certain receivables, but knowingly and intentionally not disclosing to First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks the scope and degree of past and some continuing non-compliance and falsification of delinquency, recency, receivables, and inventory reports.

All in violation of Title 18, United States Code, Section 1349.

THE GRAND JURY FURTHER CHARGES:

**Counts 2- 12
(Bank Fraud)
(18 U.S.C. Sec. 1344)**

1. The Grand Jury realleges paragraphs 1- 56 of the Introductory Allegations as though set forth in full herein.
2. On or about the following dates, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, did knowingly and willfully, and with willful blindness, execute and attempt to execute a scheme and artifice to defraud First Federal Savings Bank of the Midwest

(MetaBank) and the Participant Banks, that is, by means of materially false and fraudulent pretenses, representations, and promises, to obtain any of the monies, funds, credits, assets, securities or other property owned by, or under the custody or control of one or more financial institutions, that is, First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, forming a banking consortium to loan monies and extend lines of credit to DNAG, SDAC, Victory Properties, LLC, and associated entities as operating funds, to obtain inventory and for associated purposes:

<u>Count</u>	<u>Date of Report</u>	<u>Certified By</u>	<u>Description</u>
2	December 31, 2003	TAPKEN	Monthly Financial and Compliance Report
3	January 31, 2004	NELSON	Monthly Financial and Compliance Report
4	February 29, 2004	TAPKEN	Monthly Financial and Compliance Report
5	March 31, 2004	TAPKEN	Monthly Financial and Compliance Report
6	April 30, 2004	TAPKEN	Monthly Financial and Compliance Report
7	May 31, 2004	TAPKEN	Monthly Financial and Compliance Report
8	June 30, 2004	TAPKEN	Monthly Financial and Compliance Report
9	July 31, 2004	TAPKEN	Monthly Financial and Compliance Report
10	August 31, 2004	TAPKEN	Monthly Financial and Compliance Report
11	March 31, 2005	NELSON	Monthly Financial and Compliance Report
12	April 30, 2005	NELSON TAPKEN	Monthly Financial and Compliance Report

All in violation of Title 18, United States Code, Sections 1344 and 2.

THE GRAND JURY FURTHER CHARGES:

**Counts 13 – 25
(Wire Fraud)
(18 U.S.C. Sec. 1343)**

1. The Grand Jury realleges paragraphs 1- 56 of the Introductory Allegations as though set forth in full herein.
2. On or about the following dates, in the Southern District of Iowa and elsewhere, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, having devised a scheme or artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, that is, to obtain any of the monies, funds, credits, assets, securities or other property owned by, or under the custody or control of one or more financial institutions, including First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, forming a banking consortium to loan monies and extend lines of credit to DNAG, SDAC, Victory Properties, LLC, and associated entities as operating funds, to obtain inventory, and for associated purposes, did knowingly and willfully and with willful blindness, for the purpose of executing and attempting to execute said scheme and artifice to defraud, cause to be transmitted in interstate commerce, by means of wire communication, certain signs, signals and sounds, that is the wire transfer of monies and credits between banks, each such wire communication being a separate Count of this Indictment:

<u>Count</u>	<u>Date of Wire</u>	<u>From-To</u>	<u>Description</u>
13	December 09, 2003	First Indiana Bank Indianapolis, Indiana to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$500,000.00
14	December 15, 2003	MidCountry Bank Hutchinson, Minnesota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$400,000.00
15	March 10, 2004	First Premier Bank Sioux Falls, South Dakota to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$300,000.00
16	October 04, 2004	MidCountry Bank Hutchinson, Minnesota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$1,000,000.00
17	October 12, 2004	Home Federal Bank Sioux Falls, South Dakota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$1,000,000.00

<u>Count</u>	<u>Date of Wire</u>	<u>From-To</u>	<u>Description</u>
18	November 09, 2004	Home Federal Bank Sioux Falls, South Dakota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$300,000.00
19	November 10, 2004	Guthrie County State Bank Panora, Iowa – to Bankers Bank, Madison, Wisconsin to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$300,000.00
20	December 06, 2004	North American Banking Co. Roseville, Minnesota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$1,400,000.00
21	December 21, 2004	Guthrie County State Bank Panora, Iowa – to Bankers Bank, Madison, Wisconsin – to MetaBank Storm Lake, Iowa	\$200,000.00
22	January 11, 2005	MidCountry Bank Hutchinson, Minnesota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$650,000.00

<u>Count</u>	<u>Date of Wire</u>	<u>From-To</u>	<u>Description</u>
23	March 10, 2005	Home Federal Bank Sioux Falls, South Dakota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$700,000.00
24	March 31, 2005	MidCountry Bank Hutchinson, Minnesota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$600,000.00
25	April 27, 2005	Home Federal Bank Sioux Falls, South Dakota – to Federal Home Loan Bank Des Moines, Iowa – to First Federal Savings Bank of the Midwest (MetaBank) Storm Lake, Iowa	\$590,000.00

All in violation of Title 18, United States Code, Sections 1343 and 2.

THE GRAND JURY FURTHER CHARGES:

**Counts 26 – 28
(Mail Fraud)
(18 U.S.C. Sec. 1341)**

1. The Grand Jury realleges paragraphs 1-56 of the Introductory Allegations as though set forth in full herein.

2. On or about the following dates, in the Southern District of Iowa and elsewhere, defendants DANIEL A. NELSON and CHRISTIAN J. TAPKEN, having devised a scheme or artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, that is, to obtain any of the monies, funds, credits, assets, securities or other property owned by, or under the custody or control of one or more financial institutions, including First Federal Savings Bank of the Midwest (MetaBank) and the Participant Banks, forming a banking consortium to loan monies and extend lines of credit to DNAG, SDAC, Victory Properties, LLC, and associated entities as operating funds, to obtain inventory, and for associated purposes, did knowingly and willfully, and with willful blindness, for the purpose of executing and attempting to execute said scheme and artifice to defraud, cause to be sent, delivered, and moved in the United States mail, the items described below, each such mailing being a separate Count of this Indictment:

<u>Count</u>	<u>Date of Mailing</u>	<u>From-To</u>	<u>Description</u>
26	September 10, 2004	MetaBank to Exchange State Bank	Letter enclosing June 8, 2004 Annual Review
27	October 11, 2004	Exchange State Bank to MetaBank	Signed Participant Certificate and Agreement extending Exchange State Bank participation in \$20,000,000.00 SDAC Receivables Line of Credit

