

this presentation, but instead chose to disclose C&A's liquidity as of December 31, 2004. STOCKMAN knew that C&A was suffering a liquidity crisis, and that the failure to disclose current liquidity information, given this crisis, made the presentation materially misleading.

March 24, 2005 Press Release

81. On or about March 24, 2005, C&A announced that the audit committee had retained independent counsel to conduct a review of the rebate accounting related to supplier rebates. In this press release, with STOCKMAN's knowledge and approval, C&A repeated its earlier disclosures concerning the scope of the rebate accounting problem, with the intent of minimizing investors' concerns about the size of the restatement to C&A's financial statements.

April 3, 2005 Due Diligence Presentation to Credit Suisse

82. In or about early April 2005, desperate for cash, STOCKMAN and others sought additional financing from Credit Suisse. In connection with that request, STOCKMAN participated in an April 3, 2005 conference call with Credit Suisse to answer questions about C&A. During the call, STOCKMAN reiterated many of the same false statements he had made on the March 17, 2005 and March 24, 2005 calls described above.

83. First, STOCKMAN misled the lenders concerning liquidity at C&A. STOCKMAN stated in this call that he believed

that C&A currently had approximately \$110 million in liquidity when STOCKMAN knew that C&A's revolving credit facilities were fully drawn prior to April 3, 2005 and C&A had no other substantial source of liquidity available at that time. STOCKMAN also told CSFB and other lenders that C&A had approximately \$80-85 million in liquidity as of March 31, 2005. This statement was false because C&A did not have \$80-85 million in available liquidity on March 31, 2005, as this figure did not take into account covenant restrictions. Despite having recently obtained the leeway to assume more debt and still be in compliance with the financial covenants under its Credit Facilities, C&A was again at the debt ceiling given its level of earnings, and therefore could not engage in any additional borrowing without violating the new covenant. As a result, C&A had only approximately \$8.6 million of available liquidity on March 31, 2005 when covenant restrictions were taken into account.

84. Second, STOCKMAN misled the lenders concerning C&A's EBITDA and capital expenditures for the first quarter of 2005. In the April 3, 2005 call, STOCKMAN reiterated the same projections he had made in the March 17 and March 24, 2005 presentations, and stated in substance that there had been no material changes to his forecast. In fact, STOCKMAN had reviewed current EBITDA calculations at the end of March 2005, which still showed that C&A would miss the projected EBITDA target by a wide

margin and STOCKMAN knew that C&A had not yet received any of the hoped for recoveries from the OEMs, which were integral to his achieving his forecast for the first quarter.

85. After the April 3, 2005 due diligence call, CSFB agreed to lend C&A an additional \$75 million in financing, which C&A received on or about April 8, 2005.

April 4, 2005 press release

86. On April 4, 2005, C&A issued a press release stating that it had a commitment from Credit Suisse to obtain \$75 million in financing. That press release stated that "the Company's available liquidity (cash and unutilized commitments under revolving credit and account receivables facilities) was approximately \$81 million at March 31, 2005, as compared with approximately \$86 million at December 31, 2004." This disclosure was false and misleading for several reasons.

87. First, as discussed above, C&A did not have \$86 million in available liquidity on December 31, 2004. Because of covenant restrictions, C&A had no more than about \$12 million in available liquidity on that date. Second, as discussed above, C&A did not have \$81 million in available liquidity on March 31, 2005, because this figure also did not take into account covenant restrictions. As a result, C&A had only less than \$9 million of available liquidity on March 31, 2005 when covenant restrictions were taken into account. In reviewing the press release,

STOCKMAN knew the impact of covenants on liquidity availability and that C&A, when it publicly disclosed liquidity figures, had always disclosed what was available, not just the gross liquidity figure.

88. Third, the \$81 million figure, even if all of it had been available, would still have been materially misleading in that the press release did not disclose that this level of liquidity had only been attained by the scheme to defraud GECC. STOCKMAN knew that the liquidity number was false and misleading because he knew it was created by fraudulently inflating the GECC borrowing base.

April 22, 2005 Presentation to GECC

89. On or about April 22, 2005, STOCKMAN and others participated in a conference call with employees of GECC. In addition to the credit that GECC provided to C&A through the accounts receivable securitization facility, GECC also provided substantial off-balance sheet financing to C&A. Thus, the primary purpose of the conference call was to discuss C&A's financial condition, as GECC was concerned about, among other things, the March 2005 disclosures regarding the investigation into accounting related to supplier rebates and about the liquidity situation at C&A. During this conference call, STOCKMAN used the same slides from his March 17, 2005 presentation, and thus repeated the same false statements

described above concerning first quarter 2005 EBITDA and capital expenditures. Although STOCKMAN indicated in substance that C&A might have some difficulty making the first quarter 2005 EBITDA, which the slides indicated would be between \$65 million and \$75 million, STOCKMAN sought to reassure GECC that 2005 EBITDA would be higher than 2004 levels, and was budgeted at \$360 million for the year, which he indicated included a substantial cushion for unexpected events. STOCKMAN knew these statements were false because the first quarter had already ended with EBITDA at well below STOCKMAN's projections. Moreover, by April 22, 2005, STOCKMAN had not yet secured contractual commitments from the OEMs to provide C&A with the relief it needed to stay afloat.

90. At the time of the conference call, STOCKMAN told GECC in substance that C&A had improved its liquidity position from January 2005, despite knowing that C&A had already spent nearly all of the \$75 million in additional financing obtained from Credit Suisse in early April. Finally, although the Audit Committee's independent investigation into the rebate accounting issue was ongoing, STOCKMAN repeated his earlier misleading statements concerning the limited scope of the rebate accounting problem, noting that 90% of the rebate transactions were properly booked.

FALSE STATEMENTS AND MISLEADING OMISSIONS
IN C&A'S SEC FILINGS

91. As a result of the public listing of its securities, at all relevant times C&A was required by federal securities laws to make certain filings with the United States Securities and Exchange Commission ("SEC") and to maintain certain books and records. In particular, applicable securities statutes and regulations required C&A to, among other things, (a) file with the SEC annual financial statements audited by an independent accountant; (b) file with the SEC quarterly updates of its financial statements that disclosed its financial condition and the results of its business operations for each three-month period; (c) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles and other applicable criteria; and (d) make and keep books, records, and accounts that accurately and fairly reflected the company's business transactions.

92. The quarterly and annual reports filed by C&A for the fourth quarter of 2001 through the third quarter of 2004 included financial statements that reflected the above-described fraudulent adjustments to C&A's expenses and revenue.

93. By directing these adjustments to be made, and falsely concealing the adjustments from the C&A's auditors, STOCKMAN, STEPP, COSGROVE, BARNABA, and their co-conspirators disguised C&A's true operating performance and financial condition from the investing public. As a result, STOCKMAN, STEPP, COSGROVE, BARNABA, and their co-conspirators caused C&A to report financial results, which, as STOCKMAN, STEPP, COSGROVE, BARNABA, and their co-conspirators knew, exceeded by material amounts C&A's actual financial results in each reporting period.

THE CONSPIRACY

94. From in or about December 2001 through in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, namely (a) to commit fraud in connection with the purchase and sale of securities issued by C&A, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; (b) to make and cause to be made false and misleading statements of material fact in applications, reports, and documents required to be filed under the Securities Exchange Act of 1934 and the rules and regulations thereunder, in

violation of Title 15, United States Code, Sections 78m(a) and 78ff; (c) to falsify books, records, and accounts of C&A, in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1; (d) to make false and materially misleading statements to C&A's auditors, in violation of Title 17, Code of Federal Regulations, Section 240.13b2-2 and Title 15, United States Code, Section 78ff; (d) to commit bank fraud, in violation of Title 18, United States Code, Section 1344; (e) to commit wire fraud, in violation of Title 18, United States Code, Section 1343; and (f) to obstruct an agency proceeding, in violation of Title 18, United States Code, Section 1505.

Objects Of The Conspiracy

**Fraud In Connection With The
Purchase And Sale Of Securities**

95. It was a part and an object of the conspiracy that DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, would and did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities issued by C&A, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices,

schemes, and artifices to defraud; (b) making and causing C&A to make untrue statements of material facts and omitting to state material 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 operated and would operate as a fraud and deceit upon the purchasers and sellers of C&A securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

False Statements In
Annual And Quarterly SEC Reports

96. It was further a part and an object of the conspiracy that DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, in applications, reports, and documents required to be filed under the Securities Exchange Act of 1934 and the rules and regulations thereunder, would and did make and cause to be made statements that were false and misleading with respect to material facts, in violation of Title 15, United States Code, Sections 78m(a) and 78ff.

False Books And Records

97. It was further a part and an object of the conspiracy that DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly would and did,

directly and indirectly, falsify and cause to be falsified books, records, and accounts subject to Section 13(b)(2) of the Securities Exchange Act of 1934, namely books, records, and accounts of C&A, an issuer with a class of securities registered pursuant to the Securities Exchange Act of 1934, which C&A was required to make and keep, accurately and fairly reflecting, in reasonable detail, the transactions and dispositions of the assets of C&A, in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1.

Lying To The Auditors

98. It was further a part and an object of the conspiracy that DAVID A. STOCKMAN, J. MICHAEL STEPP, and DAVID R. COSGROVE, the defendants, being directors and officers of C&A, an issuer with a class of securities registered pursuant to Section 12 of the Act, and others known and unknown, unlawfully, willfully, and knowingly, would and did, directly and indirectly (a) make and cause to be made materially false and misleading statements; and (b) omit to state, and cause other persons to omit to state, material facts necessary in order to make the statements made, in the light of the circumstances under which such statements were made, not misleading to accountants in connection with (i) audits and examinations of the Financial Statements of C&A; and (ii) the preparation and filing of

documents and reports, required to be filed with the SEC pursuant to rules and regulations enacted by the SEC, in violation of Title 17, Code of Federal Regulations, Section 240.13b2-2 and Title 15, United States Code, Section 78ff.

Bank Fraud

99. It was a part and an object of the conspiracy that DAVID A. STOCKMAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did execute and attempt to execute a scheme and artifice to defraud financial institutions, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of said financial institutions, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

Wire Fraud

100. It was a part and an object of the conspiracy that DAVID A. STOCKMAN, the defendant, and others known and unknown, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, would and did transmit and cause to be transmitted by means of wire communication in

interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Obstruction Of Agency Proceeding

101. It was further a part and an object of the conspiracy that DAVID A. STOCKMAN and J. MICHAEL STEPP, the defendants, unlawfully, willfully and knowingly would and did corruptly influence, obstruct, and impede and endeavor to influence, obstruct, and impede the due and proper administration of the law under which any pending proceeding was being had before a department and agency of the United States, to wit, the United States Securities and Exchange Commission, in violation of Title 18, United States Code, Section 1505.

Means And Methods Of The Conspiracy

102. Among the means and methods by which DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, and others would and did carry out the conspiracy were the following:

a. STOCKMAN and STEPP negotiated "rebates" with Joan Fabrics that were in fact loans, and used the "rebates" to improperly recognize cost reductions, thereby causing, among other things, figures for C&A's publicly reported EPS, EBITDA and net income to be false and materially misleading.

b. With STEPP's knowledge and approval, STOCKMAN, COSGROVE, and BARNABA directed members of C&A's Purchasing Department to solicit false side letters in connection with certain supplier "rebate" transactions, in order to improperly recognize, or accelerate the recognition, of cost reductions, thereby causing, among other things, figures for C&A's publicly reported EPS, EBITDA, revenue growth rate, and net income to be false and materially misleading.

c. STOCKMAN, STEPP, COSGROVE, BARNABA and their co-conspirators caused C&A to file publicly with the SEC quarterly and annual reports that materially misstated, among other things, figures for C&A's EPS and net income.

d. STOCKMAN and STEPP provided and directed others to provide false and misleading financial information to the investing public and analysts.

e. STOCKMAN provided and directed others to provide false and misleading financial information to financial institutions and investment banks.

Overt Acts

103. In furtherance of the conspiracy and to effect its illegal objects, DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, PAUL C. BARNABA, and others committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about 2002, STEPP solicited a rebate payment from the Joan CEO.

b. In or about 2002, STOCKMAN promised to repay a rebate received from the Joan CEO.

c. In or about May 2003, STOCKMAN, with STEPP's knowledge and approval, directed employees of the Purchasing Department to negotiate "rebates" with C&A's suppliers, in return for promises of future business.

d. In or about Summer 2003, STOCKMAN and STEPP approved an improper "pull ahead" rebate transaction.

e. In or about 2003, COSGROVE edited false documents in connection with rebate transactions.

f. In or about 2003, BARNABA obtained approval from COSGROVE to create false documents in connection with rebate transactions.

g. In or about 2004, BARNABA advised another employee to solicit false documents in connection with capital rebate transactions.

h. In or about 2004, COSGROVE drafted false contract language for BARNABA and others to use in connection with capital rebate transactions.

i. On or about March 16, 2004, STOCKMAN and STEPP signed C&A's Annual Report on Form 10-K for the Year Ending December 31, 2003.

j. In or about August 2004, STOCKMAN and STEPP gave false and misleading information to bond investors.

k. In or about January 2005, STOCKMAN directed that C&A mislead GECC concerning the accounts receivable securitization facility.

l. On or about March 17, 2005, STOCKMAN provided false and misleading financial information to securities analysts and the investing public.

m. On or about March 24, 2005, STOCKMAN provided false and misleading financial information to its lenders.

n. On or about April 22, 2005, STOCKMAN provided false and misleading financial information to GECC.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Securities Fraud)

The Grand Jury further charges:

104. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

105. From in or about December 2001 up to and including in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, unlawfully, willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, in connection with the purchase and sale of the common stock of C&A, used and employed 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 material 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 operated and would operate as a fraud and deceit upon purchasers and sellers of the common stock of C&A.

(Title 15, United States Code, Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
Title 18, United States Code, Section 2.)

COUNT THREE

(Securities Fraud)

The Grand Jury further charges:

106. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

107. From in or about December 2001 up to and including in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, unlawfully, willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, in connection with the purchase and sale of the 10.75% Senior Subordinated Notes, due 2011, of C&A, used and employed 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 material 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 operated and would operate as a fraud and deceit upon purchasers and sellers of the 10.75% Senior Subordinated Notes, due 2011, of C&A.

(Title 15, United States Code, Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
Title 18, United States Code, Section 2.)

COUNT FOUR

(Securities Fraud)

The Grand Jury further charges:

108. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

109. From in or about December 2001 up to and including in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, J. MICHAEL STEPP, DAVID R. COSGROVE, and PAUL C. BARNABA, the defendants, unlawfully, willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, in connection with the purchase and sale of 12.875% Senior Subordinated Notes, due 2012, of C&A, used and employed 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

material 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 operated and would operate as a fraud and deceit upon purchasers and sellers of 12.875% Senior Subordinated Notes, due 2012, of C&A.

(Title 15, United States Code, Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
Title 18, United States Code, Section 2.)

COUNT FIVE

(Bank Fraud)

The Grand Jury further charges:

110. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

111. From in or about January 2005 through in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, the defendant, unlawfully, willfully, and knowingly did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Company, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of said financial institution, by means of false and fraudulent

pretenses, representations, and promises, to wit, a scheme to defraud General Electric Capital Corporation.

(Title 18, United States Code, Sections 1344 and 2.)

COUNT SIX

(Bank Fraud)

The Grand Jury further charges:

112. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

113. From in or about February 2005 through in or about May 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, the defendant, unlawfully, willfully, and knowingly did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Company, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of said financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, a scheme to defraud JP Morgan Chase.

(Title 18, United States Code, Sections 1344 and 2.)

COUNT SEVEN

(Wire Fraud)

The Grand Jury further charges:

114. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

115. From in or about March 2005 up to and including in or about April 2005, in the Southern District of New York and elsewhere, DAVID A. STOCKMAN, the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, to wit, a scheme to defraud Credit Suisse First Boston of \$75 million, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, a writing, sign, signal, picture and sound for the purpose of executing such scheme and artifice, to wit, STOCKMAN made misleading and false statements during a due diligence conference telephone call on or about April 3, 2005 between participants in New York, New York and participants outside New York.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT EIGHT

(Obstruction of Agency Proceeding)

The Grand Jury further charges:

116. The allegations contained in paragraphs 1 through 93 and paragraphs 102 and 103 of this Indictment are repeated and realleged as if fully set forth herein.

117. From at least in or about August 2003 up to and including at least in or about March 2004, in the Southern District of New York, DAVID A. STOCKMAN and J. MICHAEL STEPP, the defendants, unlawfully, willfully and knowingly, did corruptly influence, obstruct, and impede and endeavor to influence, obstruct, and impede the proper administration of the law under which a pending proceeding was being had before a department and agency of the United States, to wit, the SEC, by causing to be provided false and misleading information to the SEC relating to the Joan Fabrics Scheme.

(Title 18, United States Code, Sections 1505 and 2.)

FORFEITURE ALLEGATION

118. As a result of committing one or more of the foregoing securities fraud offenses, in violation of Title 15, United States Code, Sections 77x, 78j(b), 78o(d), and 78ff; and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.15d-2, as alleged in Counts One, Two, Three, and Four; wire fraud offenses, in violation of Title 18, United States Code,

Section 1343, as alleged in Counts One and Sixteen of this Indictment, DAVID A. STOCKMAN, the defendant, J. MICHAEL STEPP, the defendant (as to the acts alleged in Counts One, Two, Three and Four), DAVID COSGROVE, the defendant (as to acts alleged in Counts One, Two, Three, and Four), and PAUL BARNABA, the defendant, (as to acts alleged in Counts One, Two, Three, and Four), shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the securities and wire fraud offenses.

119. As a result of committing one or more of the foregoing bank fraud offenses, in violation of Title 18 United States Code, Section 1344, as alleged in Counts Fourteen and Fifteen of this Indictment, DAVID A. STOCKMAN, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 982, any property constituting or derived from the proceeds obtained directly or indirectly as a result of the bank fraud offenses and all property traceable to the commission of the bank fraud offenses.

120. The property subject to forfeiture includes, but is not limited to the following:

a. At least \$775 million in United States currency, representing the amount of proceeds obtained as a result of the charged bank fraud offenses.

b. At least \$575 million in United States currency, representing the amount of proceeds obtained as a result of the charged securities and wire fraud offenses, for which the defendants are jointly and severally liable.

SUBSTITUTE ASSETS PROVISION

121. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(i) cannot be located upon the exercise of due diligence;

(ii) has been transferred or sold to, or deposited with, a third party;

(iii) has been placed beyond the jurisdiction of the court;

(iv) has been substantially diminished in value;
or

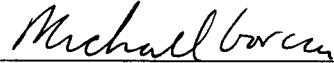
(v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982 and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

(Title 18, United States Code, Sections 371, 981, 982, 1343, 1344; Title 15, United States Code, Sections 77x, 78j(b), 78o(d), 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.15d-2; Title 21, United States, Section 853(p); and Title 28, United States Code, Section 2461.)



FOREPERSON



MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v -

**DAVID A. STOCKMAN,
J. MICHAEL STEPP,
DAVID A. COSGROVE, and
PAUL C. BARNABA**

Defendants.

INDICTMENT

07 Cr.

Title 15, United States Code, Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
Title 18, United States Code, Section 2;
Title 18, United States Code, Section 371;
Title 18, United States Code, Section 1344;
Title 18, United States Code, Section 1343;
Title 18, United States Code, Section 1505.

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL


Foreperson.

HR 3/21/07

Indictment filed under seal. A/w issued for all defendants.
— Francis, J.