

1
2 THE UNITED STATES DISTRICT
3 COURT
4 FOR THE WESTERN DISTRICT
5 OF MISSOURI
6 SOUTHERN DIVISION

7 November 2003 Grand Jury
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12 UNITED STATES OF AMERICA,) CR 03-03125-01-CR-S-GAF
13 Plaintiff,)
14 v.) S U P E R S E D I N G
15 DAMIAN SINCLAIR,) I N D I C T M E N T
16 SUSAN WINTERMUTE a/k/a)
17 Susan Sinclair,) COUNT ONE
18 and) 18 U.S.C. § 371: Conspiracy;
19 CLARENCE STEVENS,) NMT 5 Years Imprisonment
20 Defendants.) \$250,000 Fine
21) NMT 3 Years Supervised Release
22) Class D Felony
23)
24) COUNTS TWO AND THREE
25) 18 U.S.C. § 1001: False Statement;
26) NMT 5 Years Imprisonment
27) \$250,000 Fine
28) NMT 3 Years Supervised Release
) Class D Felony
)
) COUNT FOUR
) 18 U.S.C. § 1005: Illegal
) Participation
) NMT 30 Years Imprisonment
) \$1,000,000 Fine
) NMT 5 Years Supervised Release
) Class A Felony

1 COUNT FIVE
2 18 U.S.C. § 1517: Obstructing
3 Examination of Financial Institution
4 NMT 5 Years Imprisonment
5 \$250,000 Fine
6 NMT 3 Years Supervised Release
7 Class D Felony

8 COUNT SIX
9 18 U.S.C. § 656: Misapplication of
10 Bank Funds
11 NMT 30 Years Imprisonment
12 \$1,000,000 Fine
13 NMT 5 Years Supervised Release
14 Class A Felony

15 COUNTS SEVEN AND EIGHT
16 18 U.S.C. § 1344: Bank Fraud
17 NMT 30 Years Imprisonment
18 \$1,000,000 Fine
19 NMT 5 Years Supervised Release
20 Class A Felony

21 The Grand Jury charges:

22 **COUNT ONE**
23 **CONSPIRACY**
24 **[18 U.S.C. § 371]**

25 **A. BACKGROUND**

26 At all times material to this Indictment:

27 **The Defendants and Their Entities**

28 (1.) Defendant DAMIAN SINCLAIR ("SINCLAIR") owned, was
employed by, and served as a director of Sinclair Financial
Group from 1995 through 1999. SINCLAIR also owned and was
employed by Sinclair Management Services from 1996 until 2000.

1 (2.) Defendant SUSAN WINTERMUTE a/k/a Susan Sinclair
2 ("WINTERMUTE"), an attorney licensed to practice law in
3 the state of Missouri, was married to SINCLAIR until May 2000.
4 WINTERMUTE was an owner, employee, director and general counsel
5 of Sinclair Financial Group at various times from 1996 until
6 October 1999. WINTERMUTE was a salaried officer of Sinclair
7 Management Services at various times from 1996 through 1999.
8

9 (3.) Defendant CLARENCE STEVENS ("STEVENS") served as a
10 high level executive at Sinclair Financial Group beginning in
11 1997 until in or about October 1999.

12 (4.) Sinclair Financial Group was a Missouri-based consumer
13 finance company established in 1995, owned by SINCLAIR and his
14 then-wife, WINTERMUTE. Sinclair Financial Group obtained money
15 from Missouri investors by selling them unregistered securities,
16 known as "time certificates." Using these investor funds,
17 Sinclair Financial Group purchased sub-prime loans, generating
18 revenue by collecting payments on the loans and by selling the
19 loans. Sinclair Financial Group's loan holdings are referred to
20 hereinafter in this indictment as "loan portfolios."
21

22 (5.) Sinclair Management Services was a Springfield,
23 Missouri-based corporation established in 1995 by SINCLAIR to
24 service loans for Sinclair Financial Group. Both Sinclair
25 Financial Group and Sinclair Management Services were located at
26 3901 South Fremont, Springfield, Missouri.
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1 (6.) Between in or about 1995 and October 1999, SINCLAIR
2 and WINTERMUTE received in excess of \$5 million through Sinclair
3 Management Services. In October 1999, in excess of \$5 million
4 was recorded on Sinclair Financial Group's books as monies owed
5 by Sinclair Management Services to Sinclair Financial Group.

6 (7.) Beginning in or about July through October 1999, the
7 defendants and others arranged to transfer SINCLAIR's and
8 WINTERMUTE's ownership interests in Sinclair Financial Group to
9 STEVENS. As a result of this transaction, SINCLAIR and
10 WINTERMUTE obtained the following: a \$5 million promissory note
11 from STEVENS; \$5 million in cash; \$800,000 in debt forgiveness;
12 and approximately \$3.7 million of consumer loans owned by
13 Sinclair Financial Group. SINCLAIR and WINTERMUTE ultimately
14 used most of the \$5 million in cash to purchase a bank in
15 February 2000.

16 (8.) STEVENS renamed Sinclair Financial Group as Stevens
17 Financial Group, and maintained the same office location.
18 From in or about November 1999 until in or about October 2000,
19 Stevens Financial Group paid SINCLAIR approximately \$43,500 per
20 month.
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22

23 **The Regulatory Agencies**

24 (9.) The Federal Deposit Insurance Corporation ("FDIC") is
25 an agency of the United States which was established to protect
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1 depositors and members by insuring deposits in amounts up to
2 \$100,000 per account.

3 (10.) The Office of the Comptroller of the Currency ("OCC")
4 is a federal agency within the United States Department of the
5 Treasury, under the jurisdiction of the Executive Branch of the
6 government of the United States. The OCC is charged with
7 regulating certain financial institutions, including federally-
8 chartered banks. The OCC reviews, authorizes and monitors
9 proposed changes of ownership, and conducts examinations of the
10 operations of financial institutions.

11 (11.) The OCC has authority to evaluate bank capitalization
12 and assesses legal lending limit requirements pursuant to
13 federal law.

14 (12.) As part of its review and monitoring process, OCC
15 examiners conduct bank examinations to assure that banks operate
16 in a safe and sound manner and in conformity with applicable
17 laws and regulations.

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20 **The Acquisition and Operation of Sinclair National Bank**

21 (13.) In or about December 1999, SINCLAIR and WINTERMUTE
22 negotiated for the purchase of Northwest National Bank, a
23 federally-chartered financial institution, based in Gravette,
24 Arkansas, whose deposits were insured by the FDIC.

25 (14.) In or about December 1999, SINCLAIR and WINTERMUTE
26 sought OCC approval for the transfer of control of Northwest
27 National Bank.
28

1 (15.) On or about February 29, 2000, the OCC acted
2 favorably by not "disapproving" SINCLAIR's and WINTERMUTE's
3 Application for Change of Control ("OCC Application") of
4 Northwest National Bank. SINCLAIR and WINTERMUTE became owners
5 and directors of the bank and renamed it Sinclair National Bank,
6 which continued to be a federally-chartered financial
7 institution whose deposits were insured by the FDIC. SINCLAIR
8 and WINTERMUTE established Sinclair National Bank's
9 administrative offices at 3901 South Fremont, Springfield,
10 Missouri, the same building in which Sinclair Management
11 Services and Stevens Financial Group were located.
12

13 (16.) Beginning on or about March 6, 2000, Sinclair
14 National Bank began to purchase loans from Stevens Financial
15 Group.
16

17 (17.) On or about March 21, 2000, SINCLAIR and WINTERMUTE
18 voted, as members of the Sinclair National Bank board of
19 directors, to authorize the bank to purchase \$2.5 million of
20 loans per month from Stevens Financial Group, including loans in
21 which WINTERMUTE had a financial interest.

22 (18.) In or about April 2000, as part of its continuing
23 examination process, OCC examiners began an on-site review of
24 Sinclair National Bank's finances and operations.

25 (19.) In or about May 2000, the OCC notified SINCLAIR,
26 WINTERMUTE and others that they were in violation of legal
27 lending limits in connection with their extension of credit to
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1 Stevens Financial Group and ordered Sinclair National Bank to
2 sell some of the loans to correct the violation.

3 (20.) In or about May 2000, OCC examiners began to question
4 the underwriting for loans purchased from Stevens Financial
5 Group and the relationship between SINCLAIR, WINTERMUTE, and
6 STEVENS and entities, including Stevens Financial Group and
7 Sinclair Management Services.

8 (21.) Between May and August 2000, the OCC sent letters to
9 defendant SINCLAIR and Sinclair National Bank requesting
10 information regarding the loans and the relationships referred
11 to in paragraph 20.

12 (22.) The OCC continued to review and monitor Sinclair
13 National Bank's finances and operations until Sinclair National
14 Bank went into receivership on September 7, 2001.

15 **B. OBJECTS OF THE CONSPIRACY**

16 (23.) Beginning in or about mid-1999 and continuing until
17 at least September 2001, the exact dates being unknown to the
18 Grand Jury, in the Western District of Missouri and elsewhere,
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20
21 **DAMIAN SINCLAIR,**
22 **SUSAN WINTERMUTE a/k/a Susan Sinclair,**
23 **CLARENCE STEVENS,**

24 and others, knowingly and unlawfully combined, conspired and
25 agreed with each other and others known and unknown to the grand
26 jury to commit the following offenses against the United States:
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1 (a) to make a materially false and fraudulent
2 statement, in violation of Title 18, United States Code, Section
3 1001;

4 (b) to obstruct an examination by the OCC of Sinclair
5 National Bank, a financial institution, in violation of Title
6 18, United States Code, Section 1517;

7 (c) to defraud the OCC and Sinclair National Bank, a
8 financial institution, through illegal participation, in
9 violation of Title 18, United States Code, Section 1005;

10 (d) to misapply the monies, funds, and credits
11 belonging to and entrusted to the care of Sinclair National
12 Bank, a financial institution, while acting as directors of
13 Sinclair National Bank, in violation of Title 18, United States
14 Code, Section 656; and

15 (e) to execute a scheme and artifice to defraud
16 Sinclair National Bank, a financial institution, and to obtain
17 monies, funds, credits, assets, securities, and other property
18 owned by, and under the custody and control of Sinclair National
19 Bank, by means of materially false and fraudulent pretenses,
20 representations, and promises, in violation of Title 18, United
21 States Code, Section 1344.

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23
24 **C. PURPOSE OF THE CONSPIRACY**

25 (24.) A purpose of the conspiracy was for defendants
26 SINCLAIR, WINTERMUTE and STEVENS to fraudulently obtain control
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1 of a federally insured financial institution and fraudulently
2 use its assets to enrich themselves and others.

3 **D. MANNER AND MEANS**

4 The manner and means by which SINCLAIR, WINTERMUTE, STEVENS
5 and others sought to accomplish the objects of the conspiracy
6 included, among other things:

7
8 **Fraudulent Acquisition of a Bank**

9 (25.) It was part of the conspiracy that the conspirators
10 would seek to acquire a bank to use its assets to purchase loans
11 from Stevens Financial Group, thereby generating funds for the
12 benefit of the co-conspirators.
13

14 (26.) It was further part of the conspiracy that in order
15 to induce favorable action by the OCC on the proposed
16 acquisition of a bank, SINCLAIR, WINTERMUTE and others would
17 prepare, execute and submit biographical and financial reports
18 to the OCC that were fraudulent in that they omitted
19 information, including:
20

21 (a) SINCLAIR's ownership of and WINTERMUTE's
22 financial interest in Sinclair Management Services, a company
23 which owed in excess of a \$5 million debt to Stevens Financial
24 Group;

25 (b) the continuing financial relationship of SINCLAIR
26 and WINTERMUTE with Stevens Financial Group; and
27

1 (c) a \$5 million debt outstanding owed by STEVENS to
2 SINCLAIR and WINTERMUTE.

3 **Fraudulent Purchase of Loans From Stevens Financial Group**

4 (27.) It was further part of the conspiracy that after
5 acquiring Sinclair National Bank, SINCLAIR and WINTERMUTE,
6 acting as bank directors, and concealing that STEVENS owed them
7 \$5 million, would directly and indirectly enrich themselves and
8 others by fraudulently approving the purchase by the bank of
9 Stevens Financial Group loan portfolios, which included loans in
10 which they held an undisclosed financial interest.

11 (28.) It was further part of the conspiracy that after
12 acquiring the bank, and causing it to purchase loans from
13 Stevens Financial Group, SINCLAIR, WINTERMUTE, STEVENS and
14 others would fraudulently enrich themselves and others by
15 secretly obtaining large benefits, directly and indirectly from
16 Stevens Financial Group, including cash payments and funds for
17 the purchase of homes.

18 **Fraudulent Transfer of Sinclair Management Services**

19 (29.) It was further part of the conspiracy that in order to
20 conceal the fraudulent acquisition of Sinclair National Bank,
21 retain control of the bank, and use its assets for their own
22 benefit, SINCLAIR, WINTERMUTE, STEVENS and others would conceal
23 SINCLAIR's ownership of Sinclair Management Services and obstruct
24 the OCC's examination of the bank by fraudulently executing
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documents to make it appear that SINCLAIR had sold Sinclair
1 Management Services before acquiring the bank.

2 (30.) It was further part of the conspiracy that after
3 acquiring the bank, SINCLAIR, WINTERMUTE and STEVENS would
4 frustrate the OCC's ability to examine and evaluate the bank's
5 servicing and underwriting operations by transferring Stevens
6 Financial Group employees to Sinclair National Bank's payroll and
7 then reporting to the OCC that Sinclair National Bank would begin
8 servicing its own loans.
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10 **E. OVERT ACTS**

11 In furtherance of the conspiracy and to achieve the objects
12 thereof, SINCLAIR, WINTERMUTE, STEVENS and others committed and
13 caused to be committed various acts in the Western District of
14 Missouri and elsewhere:
15

16 (31.) Beginning in or about July 1999, SINCLAIR, WINTERMUTE
17 and STEVENS caused the transfer of approximately \$5 million in
18 cash from Sinclair Financial Group to SINCLAIR and WINTERMUTE.
19

20 (32.) In or about October 1999, SINCLAIR and WINTERMUTE
21 structured the transfer of ownership of Sinclair Financial Group
22 to STEVENS as a \$14.5 million sale in which they received the
23 following: \$5 million cash previously transferred from Sinclair
24 Financial Group; approximately \$3.7 million of Sinclair Financial
25 Group loans; \$800,000 in debt forgiveness; and a \$5 million
26 promissory note that STEVENS executed payable to SINCLAIR and
27 WINTERMUTE.
28

1 (33.) Beginning in or about November 1999, STEVENS caused
2 Stevens Financial Group to pay SINCLAIR approximately \$43,500 per
3 month until in or about October 2000.

4 (34.) Between in or about November 1999 and March 2001,
5 STEVENS caused Stevens Financial Group to pay charges accrued on
6 a Stevens Financial Group corporate credit card issued to
7 SINCLAIR in the amount of approximately \$74,000, some of which
8 was billed back to Sinclair National Bank.

9 (35.) In or about December 1999, SINCLAIR, WINTERMUTE and
10 others submitted an application to the OCC ("OCC Application") to
11 obtain control of Northwest National Bank.

12 (36.) On or about December 8, 1999, SINCLAIR and WINTERMUTE
13 signed the OCC Application in which they acknowledged that the
14 information contained in the biographical and financial reports
15 "was true, correct, and complete," and acknowledged that any
16 misrepresentation or omission of a material fact would
17 constitute a violation of federal law, but which omitted the
18 following information:
19

20 (a) that SINCLAIR and WINTERMUTE had been employed by
21 Sinclair Management Services during the previous five years;

22 (b) that SINCLAIR had been associated, as owner and
23 director, with Sinclair Management Services, a company which
24 owed Stevens Financial Group more than \$5 million;
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1 (c) that WINTERMUTE had been associated, as director
2 and vice president, with Sinclair Management Services, a company
3 which owed Stevens Financial Group more than \$5 million; and

4 (d) that STEVENS owed SINCLAIR and WINTERMUTE
5 \$5 million.

6 (37.) On or about March 3, 2000, SINCLAIR and WINTERMUTE
7 used most of the \$5 million cash that they had received from the
8 sale of Sinclair Financial Group as follows: \$2.75 million to
9 purchase Northwest National Bank, and approximately \$2 million
10 to satisfy Sinclair National Bank's capitalization requirements.
11

12 (38.) Between in or about March 2000 and March 2001,
13 STEVENS caused Stevens Financial Group to pay himself more than
14 \$100,000 and to pay WINTERMUTE more than \$300,000.

15 (39.) On or about March 3, 2000, SINCLAIR, WINTERMUTE and
16 STEVENS caused Sinclair National Bank to purchase loans from
17 Stevens Financial Group for approximately \$1.8 million.
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19 (40.) On or about March 21, 2000, while concealing from
20 other directors their financial interests in the loans and their
21 relationships with STEVENS and Stevens Financial Group, SINCLAIR
22 and WINTERMUTE voted, as Sinclair National Bank directors, to
23 purchase \$2.5 million of loans per month from Stevens Financial
24 Group.

25 (41.) On or about March 31, 2000, WINTERMUTE and STEVENS
26 caused Sinclair National Bank to purchase through Stevens
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28

1 Financial Group WINTERMUTE's interest in certain Stevens
2 Financial Group loans for approximately \$100,000.

3 (42.) On or about April 3, 2000, SINCLAIR, WINTERMUTE,
4 STEVENS and others caused the sale of Stevens Financial Group
5 loans to Sinclair National Bank for approximately \$2.3 million.

6 (43.) On or about May 1, 2000, SINCLAIR and WINTERMUTE
7 filed Statements of Interest with the OCC, disclosing SINCLAIR's
8 ownership of Sinclair Management Services and describing
9 Sinclair Management Services as a "non-operating shell."

10 (44.) On or about May 11, 2000, WINTERMUTE and STEVENS sold
11 WINTERMUTE's loans to Stevens Financial Group for over \$200,000.

12 (45.) On or about May 23, 2000, SINCLAIR, STEVENS, co-
13 conspirator Scott Pope and others agreed to create and backdate
14 a "Purchase Agreement" and an accompanying "Bill of Sale" to
15 falsely reflect that SINCLAIR and WINTERMUTE had sold their
16 interest in Sinclair Management Services and its over \$5 million
17 debt "as of February 15, 2000."

18 (46.) On or about May 26, 2000, SINCLAIR and STEVENS signed
19 an "Assignment and Assumption Agreement" assigning the over \$5
20 million debt to another entity and releasing Sinclair Management
21 Services from its debt.

22 (47.) On or about June 16, 2000, SINCLAIR falsely
23 represented to the OCC that he and WINTERMUTE were "consultants
24 to Stevens Financial Group, Inc. through July 13, 2001, for no
25 cash compensation."
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1 (48.) On or about July 6, 2000, in response to an OCC
2 notice that it intended to examine Stevens Financial Group
3 because it was Sinclair National Bank's loan servicer, SINCLAIR
4 notified the OCC that Stevens Financial Group would no longer
5 service Sinclair National Bank loans and that Sinclair National
6 Bank would commence servicing their own loans.

7 (49.) In or about August 2000, SINCLAIR executed the
8 fraudulent backdated Sinclair Management Services "Purchase
9 Agreement" and SINCLAIR and WINTERMUTE executed the accompanying
10 "Bill of Sale" which purported to evidence a sale "as of
11 February 15, 2000."

12 (50.) On or about August 4, 2000, SINCLAIR provided to the
13 OCC a copy of the fraudulent backdated "Purchase Agreement" and
14 accompanying "Bill of Sale."

15 (51.) In or about February 2001, SINCLAIR and WINTERMUTE
16 caused Sinclair National Bank to purchase, for more than
17 \$200,000, loans from Stevens Financial Group that had previously
18 been owned by WINTERMUTE.
19

20 (52.) From in or about March 2000 through March 2001,
21 STEVENS, SINCLAIR and WINTERMUTE engaged in the following acts
22 in connection with the purchase of a new home for WINTERMUTE and
23 the transfer of another home from WINTERMUTE through STEVENS to
24 SINCLAIR:
25

26 (a) On or about March 31, 2000, after obtaining funds
27 from Sinclair National Bank for the sale of loans, STEVENS
28

caused Stevens Financial Group to fund WINTERMUTE's purchase of
1 a \$960,000 home located in Springfield, Missouri;

2 (b) On or about April 3, 2000, WINTERMUTE transferred
3 title to her \$500,000 home in Dallas County, Missouri ("the
4 Dallas County home") to Stevens Financial Group;

5 (c) On or about July 7, 2000, WINTERMUTE entered into
6 an agreement with Stevens Financial Group in which she and
7 SINCLAIR would transfer to Stevens Financial Group more than
8 \$460,000 of loans from their loan portfolio; and
9

10 (d) On or about March 14, 2001, five days before
11 STEVENS filed for bankruptcy on behalf of Stevens Financial
12 Group, STEVENS, acting as president of Stevens Financial Group,
13 transferred ownership of the Dallas County home to SINCLAIR.
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15 All in violation of Title 18, United States Code, Section
16 371.
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COUNT TWO
FALSE STATEMENT
[18 U.S.C. § 1001]

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2 The Grand Jury charges that:

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4 (53.) The allegations contained in paragraphs 1 through 22
5 and 25 through 52 of this indictment are hereby realleged and
6 incorporated by reference as though fully set out herein.

7 (54.) On or about December 8, 1999, in the Western District
8 of Missouri, in a matter within the jurisdiction of the Office
9 of the Comptroller of the Currency, an agency of the Executive
10 Branch of the United States, defendants

11
12 **DAMIAN SINCLAIR**
13 **and**
14 **SUSAN WINTERMUTE a/k/a Susan Sinclair**

15 knowingly and willfully falsified, concealed and covered up by a
16 trick, scheme and device a material fact in an application to
17 the Office of the Comptroller of the Currency, in that the
18 defendants concealed the following about their relationship with
19 Sinclair Management Services:(a) their ownership, previous
20 employment, association and proprietary interest in Sinclair
21 Management Services; (b) a debt of more than \$5 million owed by
22 Sinclair Management Services to Stevens Financial Group; and (c)
23 a \$5 million note outstanding owed by STEVENS to SINCLAIR and
24 WINTERMUTE.

25
26 All in violation of Title 18, United States Code, Sections
27 1001 and 2.

COUNT THREE
FALSE STATEMENT
[18 U.S.C. § 1001]

1
2 The Grand Jury charges that:

3 (55.) The allegations contained in paragraphs 1 through 22
4
5 and 25 through 52 of this indictment are hereby realleged and
6 incorporated by reference as though fully set out herein.

7 (56.) In or about August 2000, in the Western District of
8 Missouri, in a matter within the jurisdiction of the Office of
9 the Comptroller of the Currency, an agency of the Executive
10 Branch of the United States, defendant

DAMIAN SINCLAIR

11 knowingly and willfully made and caused to be made and used and
12 caused to be used a false writing and document knowing the same
13 to contain a materially false, fictitious, and fraudulent
14 statement and entry, in a letter to the Office of the
15 Comptroller of the Currency, in that the defendant falsely
16 represented that he was an unpaid consultant to Stevens
17 Financial Group when in fact he was receiving approximately
18 \$43,500 per month from the company.
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22 All in violation of Title 18, United States Code, Sections
23 1001 and 2.
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COUNT FOUR
ILLEGAL PARTICIPATION
[18 U.S.C. § 1005]

The Grand Jury charges that:

(57.) The allegations contained in paragraphs 1 through 22 and 25 through 52 of this indictment are hereby realleged and incorporated by reference as though fully set out herein.

(58.) In or about March 2000, in the Western District of Missouri, defendants

DAMIAN SINCLAIR
and
SUSAN WINTERMUTE a/k/a Susan Sinclair

with intent to defraud Sinclair National Bank, a federally insured bank and financial institution, and the Office of the Comptroller of the Currency, an agency of the Executive Branch of the United States, knowingly and wilfully, participated and shared in and received, directly and indirectly, money, profit, property, and benefits through a transaction, loan, commission and contract of such federally insured bank, in that SINCLAIR and WINTERMUTE as owners and directors of Sinclair National Bank caused Sinclair National Bank to purchase loans from Stevens Financial Group while concealing their financial relationship with Stevens Financial Group.

All in violation of Title 18, United States Code, Sections 1005 and 2.

COUNT FIVE
OBSTRUCTING EXAMINATION OF A FINANCIAL EXAMINATION
[18 U.S.C. § 1517]

The Grand Jury charges that:

(59.) The allegations contained in paragraphs 1 through 22 and 25 through 52 of this indictment are hereby realleged and incorporated by reference as though fully set out herein.

(60.) In or about May 2000, in the Western District of Missouri, in a matter within the jurisdiction of the Office of the Comptroller of the Currency, an agency of the Executive Branch of the United States with jurisdiction to conduct an examination of a financial institution, defendants

DAMIAN SINCLAIR
and
CLARENCE STEVENS

corruptly obstructed and attempted to obstruct the examination of a financial institution, in that the defendants created and presented to the Office of the Comptroller of the Currency, during an examination of Sinclair National Bank, documents that falsely and fraudulently represented that SINCLAIR had divested his interest in Sinclair Management Services before obtaining control of Sinclair National Bank.

All in violation of Title 18, United States Code, Sections 1517 and 2.

COUNT SEVEN
BANK FRAUD
[18 U.S.C. § 1344]

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2 The Grand Jury charges that:

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4 (63.) The allegations contained in paragraphs 1 through 22
5 of this indictment are hereby realleged and incorporated by
6 reference as though fully set out herein. The allegations
7 contained in paragraphs 25 through 30 of this indictment are also
8 hereby realleged and incorporated by reference as though fully
9 set out herein as constituting a scheme and artifice to defraud
10 and for obtaining money by means of false and fraudulent
11 pretenses, representations, and promises.
12

13 (64.) On or about March 6, 2000, in the Western District of
14 Missouri and elsewhere, defendants

15 **DAMIAN SINCLAIR**
16 **and**
17 **SUSAN WINTERMUTE a/k/a Susan Sinclair,**

18 having devised and intended to devise the aforesaid scheme and
19 artifice to defraud Sinclair National Bank, a financial
20 institution whose deposits were insured by the FDIC, and to
21 obtain money and funds owned by and under the custody and control
22 of Sinclair National Bank, by means of false and fraudulent
23 pretenses, representations, and promises, knowingly executed the
24 scheme and artifice by causing Sinclair National Bank to purchase
25 and acquire loans from Stevens Financial Group in the amount of
26 approximately \$1.8 million.
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All in violation of Title 18 United States Code, Sections

1 1344 and 2.

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COUNT EIGHT
BANK FRAUD
[18 U.S.C. § 1344]

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2 The Grand Jury charges that:

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4 (65.) The allegations contained in paragraphs 1 through 22
5 of this indictment are hereby realleged and incorporated by
6 reference as though fully set out herein. The allegations
7 contained in paragraphs 25 through 30 of this indictment are also
8 hereby realleged and incorporated by reference as though fully
9 set out herein as constituting a scheme and artifice to defraud
10 and for obtaining money by means of false and fraudulent
11 pretenses, representations and promises.
12

13 (66.) On or about April 4, 2000, in the Western District of
14 Missouri and elsewhere, defendants

15 **DAMIAN SINCLAIR**
16 **and**
17 **SUSAN WINTERMUTE a/k/a Susan Sinclair,**

18 having devised and intended to devise the aforesaid scheme and
19 artifice to defraud Sinclair National Bank, a financial
20 institution whose deposits were insured by the Federal Deposit
21 Insurance Company, and to obtain money and funds owned by and
22 under the custody and control of Sinclair National Bank, by means
23 of false and fraudulent pretenses, representations, and promises,
24 knowingly executed the scheme and artifice by causing Sinclair
25 National Bank to purchase and acquire loans from Stevens Financial
26 Group in the amount of approximately \$2.3 million.
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All in violation of Title 18 United States Code, Sections

1 1844 and 2.

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COUNT NINE
CRIMINAL FORFEITURE
[18 U.S.C. § 982(a)(2)(A)]

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The Grand Jury charges that:

(67.) The allegations contained in Counts Four and Six through Eight of this Indictment are realleged and incorporated by reference herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(2)(A).

(68.) As a result of the foregoing offenses alleged in Counts Four and Six through Eight of the Indictment, defendants

DAMIAN SINCLAIR,
SUSAN WINTERMUTE a/k/a Susan Sinclair
and
CLARENCE STEVENS,

if convicted of any one of Counts 4 or 6 through 8 of the Indictment, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation. Such properties include, but are not limited to:

a. The aggregate sum of \$15,000,000 and all interest and proceeds derived therefrom;

b. The residence and real property located at 4231 East Catalpa in Springfield of Greene County, Missouri, together with all improvements, fixtures, appurtenances, other structures located thereon;

1 c. The residence and real property located at all of
2 the West 5 Rods of the Northwest Quarter of Section 26, Township
3 29, Range 21, as described and recorded in Book 274, Page 43 D of
4 the Greene County Registry of Deeds together with all
5 improvements, fixtures, appurtenances, and other structures
6 located thereon;

7 d. The residence and real property located in Dallas
8 County, Missouri together with all improvements, fixtures,
9 appurtenances, and other structures located thereon at the South
10 half of the South half of the Northeast quarter of Section 3,
11 which lies West of a certain line of the Southeast quarter of
12 Section 3, excepting therefrom one half acre more or less
13 described as follows: beginning at the Northeast corner of the
14 said Northeast quarter of the Southeast quarter of Section 3,
15 thence West to the West right of way line of State Highway AA for
16 a point of beginning; thence running from this point West 225
17 feet; thence South 100 feet; thence East 225 feet or to said
18 State Highway AA and thence North following said Highway 100 feet
19 or to the point of beginning; also excepting therefrom the South
20 748.5 feet of the Northeast quarter of the Southeast quarter of
21 Section 3; all of the above described land lying and being in
22 Section 3, township 31, range 20; also excepting any part thereof
23 used for road purposes and any other easements.
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27 (69.) If any property being subject to forfeiture pursuant
28 to Title 18, United States Code, Section 982(a)(2)(A), as a

result of any act or omission of the defendants DAMIAN SINCLAIR,
1 SUSAN WINTERMUTE a/k/a Susan Sinclair, and CLARENCE STEVENS

2 a. cannot be located upon the execution of due
3 diligence;
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5 b. has been transferred or sold to, or deposited
6 with, a third party;
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8 c. has been placed beyond the jurisdiction of the
9 court;

10 d. has been substantially diminished in value; or

11 e. has been commingled with other property that
12 cannot be divided without difficulty;
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14 it is the intent of the United States of America, pursuant to
15 Title 21, United States Code, Section 853(p), as incorporated by
16 Title 18, United States Code Section 982(b)(1), to seek
17 forfeiture of properties of the defendant up to the value of
18 \$15,000,000 in United States currency. All pursuant to Title 18,
19 United States Code, Section 982.
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A TRUE BILL

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FOREPERSON

JOSHUA R. HOCHBERG
Acting United States Attorney

Jack B. Patrick
Senior Trial Attorney
Department of Justice

Pamela J. Wechsler
Trial Attorney
Department of Justice