



publicly-traded on the American Stock Exchange, a national exchange located in New York, New York. On or about March 19, 2002, Standard Automotive filed for bankruptcy in the United States Bankruptcy Court for the Southern District of New York.

2. At all times relevant to this Indictment, STEVEN MERKER, the defendant, was the Chairman, President, and Chief Executive Officer of Standard Automotive. MERKER worked from Standard Automotive's Park Avenue offices.

3. At all times relevant to this Indictment, WILLIAM MERKER, the defendant, was a director of Standard Automotive. From in or about August 1997 through in or about January 1999, MERKER was the Vice President and Secretary of Standard Automotive. In or about November 2000, Standard Automotive entered into an agreement with MERKER by which he was to provide unspecified consulting services to the Company. MERKER worked from Standard Automotive's Park Avenue offices. WILLIAM MERKER and STEVEN MERKER are brothers (collectively, "the MERKERS").

4. At all times relevant to this Indictment, a co-conspirator not named as a defendant herein ("CC-1"), worked for Standard Automotive on a fee-basis, attempting to identify potential acquisition targets for Standard Automotive. From in or about December 1999 through in or about March 2001, CC-1 shared an office with STEVEN MERKER at Standard Automotive's Park Avenue offices.

### **BACKGROUND**

5. On or about January 22, 1998, Standard Automotive completed an initial public offering of its common stock, selling approximately 1,495,000 shares of common stock at a price of \$10 per share and approximately 1,150,000 shares of convertible redeemable preferred stock at a price of \$12 per share. That same day, Standard Automotive's common stock began to be publicly-traded on the American Stock Exchange. The proceeds from the initial public offering were principally used by Standard Automotive to acquire Ajax Manufacturing Corporation ("Ajax"), a manufacturer of trailer chassis headquartered in Hillsborough, New Jersey. Following Standard Automotive's acquisition of Ajax, Standard Automotive acquired approximately six other companies.

### **THE SCHEME TO DEFRAUD**

6. From in or about February 1999 through in or about March 2001, STEVEN MERKER and WILLIAM MERKER, and others known and unknown, participated in a scheme to defraud Standard Automotive's shareholders and creditors by misrepresenting the Company's business transactions and through their use and embezzlement of the Company's funds and other assets for their

own personal enrichment. The scheme operated through a variety of means, including, among others:

(a) **Diverted Acquisition Funding**: In public filings with the United States Securities and Exchange Commission (the "SEC"), the defendants and their co-conspirators portrayed Standard Automotive as a highly-successful company engaged in rapid expansion through the acquisition of leading companies. In truth, and in fact, STEVEN MERKER and WILLIAM MERKER used Standard Automotive's acquisitions as a vehicle for their own personal enrichment. Toward this end, STEVEN MERKER and WILLIAM MERKER orchestrated three multi-million dollar acquisitions, which were funded in large part through loans made to Standard Automotive by various federally-insured banks. In the course of these acquisitions, STEVEN MERKER and WILLIAM MERKER caused Standard Automotive to pay substantially in excess of the originally negotiated purchase price for each of those three companies. STEVEN MERKER and WILLIAM MERKER then directed the sellers of the acquired companies to wire the excess funds to accounts controlled by CC-1, and then caused CC-1 to withdraw a substantial portion of those funds in cash and deliver the cash to STEVEN MERKER and WILLIAM MERKER.

(b) **The Bank Fraud Scheme:** From in or about January 2000 through in or about March 2001, STEVEN MERKER and WILLIAM MERKER participated in a scheme to defraud Standard Automotive's creditors, by, among other things, making false statements concerning the terms of Standard Automotive's acquisitions and by failing fully to disclose certain related party transactions, which resulted in substantial sums of cash being paid to the MERKERS from funds advanced by Standard Automotive's creditors for those acquisitions.

(c) **The Fraudulent Invoices:** In a continuing effort to benefit personally from Standard Automotive's acquisitions, WILLIAM MERKER created a series of bogus invoices seeking payment for advice and due diligence purportedly performed on behalf of Standard Automotive by himself and an entity that he controlled. As a result of these false and fraudulent invoices, WILLIAM MERKER caused Standard Automotive to pay him thousands of dollars that he was not entitled to receive and that were not disclosed to Standard Automotive's shareholders or creditors in the year 2000.

(d) **The Fraudulent Business Expenses:** From in or about February 1999 through in or about December 2000, STEVEN MERKER and WILLIAM MERKER, in violation of their fiduciary duties as officers and directors of Standard Automotive, engaged in a scheme to defraud the Company by falsifying their expense reports

so that it appeared that each had incurred legitimate business expenses far in excess of the expenses that each had actually incurred. In furtherance of this scheme, STEVEN MERKER and WILLIAM MERKER fraudulently inflated the amounts of legitimate business expenses that each had actually incurred on their expense reports. STEVEN MERKER and WILLIAM MERKER also sought reimbursement for fictitious expenses, as well as for their own personal expenses. As a result of these fraudulent expense reports, STEVEN MERKER and WILLIAM MERKER caused Standard Automotive to pay them thousands of dollars for purported business expenses that each did not actually incur.

#### **STANDARD AUTOMOTIVE'S REQUIRED PUBLIC DISCLOSURES**

7. To sell securities to members of the public and maintain public trading of its securities in the United States, Standard Automotive was required to comply with provisions of the federal securities laws and regulations that are designed to ensure that a company's financial and business information is accurately recorded and disclosed to the investing public. Among other things, these laws and regulations required Standard Automotive: (a) prior to the sale of its shares to the public, to file with the SEC a registration statement that described the Company's business and included financial statements audited by an independent accountant; (b) to file with the SEC quarterly and annual reports that disclosed its financial transactions and the

disposition of its assets; (c) to report non-recurring material events affecting the Company's business and financial condition; and (d) to make and keep books, records, and accounts that accurately and fairly reflected the Company's business transactions.

8. In addition to filing public reports of its financial condition and business transactions, the federal securities laws and regulations required Standard Automotive and its executive officers to make timely and accurate public reports regarding the compensation received by Standard Automotive's executive officers and directors. Among other things, Standard Automotive was required to include in its annual reports filed with the SEC a statement of the compensation received by each of its executive officers and directors.

9. Pursuant to its obligations under the federal securities laws and regulations, from in or about March 1998 through in or about May 2002, Standard Automotive filed with the SEC various reports in which it purported to disclose, among other things, the terms by which it acquired its operating companies, fees paid in connection with those acquisitions, the results of its business operations, its financial condition and performance, and the compensation paid to its executive officers and directors. As set forth below, STEVEN MERKER and WILLIAM MERKER caused Standard Automotive's publicly filed reports to

contain numerous misrepresentations and omissions as part of a concerted and purposeful effort by STEVEN MERKER and WILLIAM MERKER to mislead the investing public and Standard Automotive's creditors into believing that the Company was a vibrant and growing concern, rather than a vehicle by which to enrich themselves.

#### **The Fraudulent Acquisition Scheme**

10. Throughout the time that Standard Automotive's shares were publicly traded, Standard Automotive, STEVEN MERKER and WILLIAM MERKER represented to the SEC, to members of the investing public, and to its creditors, that its business strategy and prospects for future growth, were based in substantial part upon its ability to acquire companies that were leaders in their markets and to integrate efficiently the operations of the companies it acquired. For example, in the Prospectus for Standard Automotive's initial public offering, Standard Automotive stated, that the Company's "business strategy is to grow through the acquisition of companies that manufacture complementary products, by diversifying its product lines and, establishing manufacturing facilities in the western United States."

11. In an effort to profit personally from Standard Automotive's strategy of growth by acquisition, STEVEN MERKER and WILLIAM MERKER caused Standard Automotive to acquire, among

others, three companies: (a) Atelier D'Usingae Arell Ltee ("Arell"); (b) Airborne Gear & Machine Ltd. ("Airborne"); and (c) The Providence Group, Inc. ("TPG"). In connection with Standard Automotive's acquisition of each of these companies, STEVEN MERKER and WILLIAM MERKER entered into a secret, unlawful agreement with CC-1 pursuant to which: (1) STEVEN MERKER and WILLIAM MERKER would cause the acquired companies to pay a purported "broker's fee" or "acquisition related expenses" to CC-1; (2) CC-1 would then kick-back a portion of the "fee" or "expenses" to STEVEN MERKER and WILLIAM MERKER in cash; and (3) CC-1 would be allowed to keep the remaining portion of the "fee" or "expenses" for paying any taxes due and as compensation for his participation in the scheme. In each acquisition, STEVEN MERKER and WILLIAM MERKER persuaded the acquired companies to pay the so-called "fees" or "expenses" to CC-1 by agreeing to increase the originally agreed-upon acquisition price by an amount equal to the "fee" or "expenses" paid to CC-1. In truth, and in fact, CC-1 never acted as a broker or incurred any expenses in connection with any of these acquisitions. Further, CC-1's cash payments to the MERKERS were not disclosed to Standard Automotive's investors or creditors, and were used by the MERKERS for their own benefit, including renovations to a beach house owned by WILLIAM MERKER.

### The Arell and Airborne Acquisitions

12. In or about January 2000, STEVEN MERKER and WILLIAM MERKER met in Montreal, Canada with representatives of Arell, a manufacturer of high-precision parts for aircraft engines, landing gear and aircraft fuselages. During this same period, STEVEN MERKER and WILLIAM MERKER also met in Montreal, Canada, with representatives of Airborne, a manufacturer of high-precision rotating parts for jet engines. From in or about January 2000 through in or about March 2000, STEVEN MERKER and WILLIAM MERKER negotiated for Standard Automotive to purchase both Arell and Airborne for consideration consisting principally of a cash payment of \$30,500,000 Canadian dollars.

13. Days before the closing date of the transactions, however, STEVEN MERKER and WILLIAM MERKER informed representatives of Arell and Airborne that Standard Automotive had agreed to pay additional fees as part of the transaction and that these fees would be included as part of the purchase price paid to Arell and Airborne. STEVEN MERKER and WILLIAM MERKER instructed representatives of Arell and Airborne to wire these additional funds to a nominee account controlled by CC-1 following the closing of the transaction. STEVEN MERKER and WILLIAM MERKER then arranged for CC-1 to deliver a portion of these funds to them in secret, undisclosed cash payments. STEVEN MERKER and WILLIAM MERKER further agreed to create and execute

false documents in which they attempted to disguise the payments made to a nominee account controlled by CC-1 as legitimate fees incurred in connection with these acquisitions.

14. On or about March 3, 2000, a Stock Purchase Agreement was entered into between Standard Automotive and Arell relating to the purchase of Arell by Standard Automotive. The Stock Purchase Agreement was executed on behalf of Standard Automotive by STEVEN MERKER. The Stock Purchase Agreement falsely represented the purchase price to be approximately \$12,690,000 Canadian dollars.

15. On or about March 3, 2000, a letter agreement was signed by STEVEN MERKER, a representative of Arell, and CC-1 confirming the understanding of the parties to the Arell Stock Purchase Agreement that a "broker's fee" of \$185,000 Canadian dollars would be included as part of the purchase price, but would be paid by Arell to an entity entitled GD Squared LLC ("GD Squared") following the closing of the transaction. The letter outlining this understanding stated, in part:

This letter is to confirm the understanding of the parties to the Stock Purchase Agreement with respect to the payment of a broker's fee (the "Fee") in the amount of C\$185,000 which is to be paid to GD Squared LLC ... (the "Broker") in connection with the closing of the transactions contemplated by the Stock Purchase Agreement. The Fee has been included in the amount described as the "Purchase Price" in the Stock Purchase Agreement, and upon the Closing and following Sellers' receipt of the Purchase Price,

Seller shall remit the Fee ... to the Broker pursuant to written instructions to be provided by Purchaser prior to the Closing Date.

16. On or about March 3, 2000, a Stock Purchase Agreement was entered into among Standard Automotive and Airborne relating to the acquisition of Airborne. The Stock Purchase Agreement was executed on behalf of Standard Automotive by STEVEN MERKER. The Stock Purchase Agreement falsely represented the purchase price to be approximately \$18,260,000 Canadian dollars.

17. As with the Arell transaction, on or about March 3, 2000, a letter agreement was signed by STEVEN MERKER, a representative of Airborne, and CC-1, confirming the understanding of the parties to the Airborne Stock Purchase Agreement that a "broker's fee" of \$265,000 Canadian dollars would be included as part of the purchase price, but would be paid by Airborne to GD Squared following the closing of the transaction. The letter outlining this understanding stated, in part:

This letter is to confirm the understanding of the parties to the Stock Purchase Agreement with respect to the payment of a broker's fee (the "Fee") in the amount of C\$265,000 which is to be paid to GD Squared LLC ... (the "Broker") in connection with the closing of the transactions contemplated by the Stock Purchase Agreement. The Fee has been included in the amount described as the "Purchase Price" in the Stock Purchase Agreement, and upon the Closing and following Sellers' receipt of the Purchase Price, Seller shall remit the Fee ... to the Broker

pursuant to written instructions to be provided by Purchaser prior to the Closing Date.

18. Following the consummation of the Arell and Airborne transactions, on or about May 1, 2000, representatives of Arell and Airborne, pursuant to their agreement with STEVEN MERKER and WILLIAM MERKER, wired approximately \$302,751 into an account maintained by GD Squared at Sovereign bank in Pennsylvania. Thereafter, from May 3, 2000 through in or about August 2000, acting at the direction of STEVEN MERKER and WILLIAM MERKER, CC-1 caused cash totaling approximately \$139,000 to be withdrawn from GD Squared's account at Sovereign bank. CC-1, acting at the direction of STEVEN MERKER and WILLIAM MERKER, made certain that each of these cash withdrawals were in amounts of less than \$10,000, in an effort to evade the currency transaction reporting requirements of Sovereign bank. CC-1 then delivered this cash to STEVEN MERKER and WILLIAM MERKER at Standard Automotive's Park Avenue offices.

19. On or about June 29, 2000, Standard Automotive filed with the SEC its Annual Report for the fiscal year ending March 31, 2000 on Form 10-K (the "2000 Annual Report"). The Standard Automotive 2000 Annual Report was signed on behalf of the Company

by STEVEN MERKER, and stated, in part:

We acquired Airborne and Arell for an aggregate purchase price of \$20,897,700, subject to final adjustment and potential earnouts estimated to be \$6,000,000 based on defined EBITDA hurdles.

\* \* \*

In April 2000, we completed the acquisition of all the outstanding capital stock of Airborne and Arell. As part of the fees related to the acquisition, Redstone Advisors, a partnership of which William Merker and Redstone Capital (a corporation owned by Andrew Levy and certain of his affiliates) are principals, received a cash fee of \$785,000.

20. The statements regarding the Arell and Airborne transactions contained in Standard Automotive's 2000 Annual Report were false and misleading when made because, among other things, as STEVEN MERKER and WILLIAM MERKER well knew, the MERKERS had caused Standard Automotive to pay the sellers of Arell and Airborne the additional sum of approximately \$302,000 so that the MERKERS could receive a portion of those funds in secret, undisclosed cash payments. With respect to the

compensation received by STEVEN MERKER, the 2000 Annual Report stated, in part:

In January 1998, we entered into an employment agreement with Steven Merker. The agreement has a three year term, subject to earlier termination upon the occurrence of certain specified events. Pursuant to his employment agreement, Mr. Merker's current base annual salary is \$240,000 and such bonus compensation as the Board of Directors may determine.

The 2000 Annual Report reported that STEVEN MERKER's total compensation for the year 2000 included his salary of \$240,000, a \$60,000 bonus and options to purchase 120,000 shares of Standard Automotive's common stock. With respect to the compensation paid to directors of Standard Automotive, including WILLIAM MERKER, the 2000 Annual Report stated, in part:

Non-employee directors will receive compensation of \$500 per meeting attended and options to purchase 2,000 shares of our Common Stock in respect of the first year of such services as a director, and 500 shares of our Common Stock for each year of such service thereafter.

21. The statements regarding the compensation paid to STEVEN MERKER and WILLIAM MERKER in the 2000 Annual Report were false and misleading when made because, as STEVEN MERKER and WILLIAM MERKER well knew, they had received secret, undisclosed cash payments totaling approximately \$139,000 from CC-1 as part of the Arell and Airborne acquisitions.

22. On or about August 14, 2000, Standard Automotive filed with the SEC a Quarterly Report for the first quarter ending June

30, 2000 on Form 10-Q (the "June 2000 10-Q"). The June 2000 10-Q was signed on behalf of the Company by STEVEN MERKER. With respect to the acquisition of Arell and Airborne, the June 2000 10-Q stated:

In April 2000, Standard, through Critical Components Corporation's newly established Canadian subsidiary, Critical Components Canada, Ltd., completed the acquisition of all of the outstanding capital stock of Airborne and Arell. As part of the fees and expenses related to the acquisitions, Redstone Advisors, a partnership of which William Merker and Redstone Capital Corporation (a corporation owned by Andrew Levy and certain of his affiliates) are principals, was issued 120,000 shares of our common stock and received a cash fee of \$785,000.

23. The statements regarding the fees paid in connection with the Arell and Airborne acquisitions contained in the June 2000 10-Q were false and misleading when made because, as STEVEN MERKER and WILLIAM MERKER well knew, the MERKERS had caused Standard Automotive to pay the sellers of Arell and Airborne the additional sum of approximately \$302,000 so that the MERKERS could receive a portion of those funds in secret, undisclosed cash payments.

#### **The Providence Group Acquisition**

24. In or about January 2000, STEVEN MERKER and WILLIAM MERKER spoke to representatives of TPG, a company based in Knoxville, Tennessee, that designed and manufactured robotics and other operating systems for use in hazardous environments. From

in or about January 2000 through in or about August 2000, STEVEN MERKER and WILLIAM MERKER attempted to negotiate a deal whereby a private company known as Remediation Technologies, Inc. ("RTI") would acquire TPG. When those efforts failed, in or about late August 2000, STEVEN MERKER and WILLIAM MERKER arranged for Standard Automotive to purchase TPG for consideration consisting principally of a cash payment of \$2,700,000.

25. In yet another effort to profit personally from Standard Automotive's acquisitions, days before the closing date, STEVEN MERKER and WILLIAM MERKER informed representatives of TPG that Standard Automotive had agreed to pay additional fees as part of the transaction, and that these fees would be included as part of the purchase price paid to TPG. As with the Arell and Airborne transactions, STEVEN MERKER and WILLIAM MERKER instructed representatives of TPG to wire these additional funds to a nominee account controlled by CC-1 following the closing of the transaction. STEVEN MERKER and WILLIAM MERKER then arranged to receive a portion of these additional funds in secret, undisclosed cash payments from CC-1. STEVEN MERKER and WILLIAM MERKER further agreed to create and execute false documents in which they attempted to disguise TPG's payments to a nominee account controlled by CC-1 as legitimate fees incurred in connection with this transaction.

26. On or about August 29, 2000, Standard Automotive's

wholly-owned subsidiary, Critical Components Corporation, formed PGI Acquisition, a Delaware corporation. Thereafter, on or about August 31, 2000, STEVEN MERKER and WILLIAM MERKER caused PGI to enter into a Purchase Agreement with TPG. The Purchase Agreement was executed on behalf of Standard Automotive by STEVEN MERKER. The Purchase Agreement falsely represented the purchase price for TPG to be \$3,100,000.

27. On or about August 29, 2000, two days before the Purchase Agreement was signed, a letter was signed by STEVEN MERKER, a representative of TPG, and a signature purporting to be that of CC-1, confirming the understanding of the parties to the TPG Purchase Agreement that "certain acquisition related expenses" would be included as part of the purchase price, but would be paid to an entity entitled Nazarite, LLC following the closing of the transaction. The letter outlining this understanding stated, in part:

This letter is to confirm the understanding of the parties to the Agreement with respect to the payment of certain acquisition related expenses which are to be paid to Nazarite, LLC ... in connection with the closing of the transaction contemplated by the Agreement. The acquisition related costs totaling \$400,000 have been included in the amount described as "Purchase Price" in the Agreement, and upon the Closing and following Sellers' receipt of the Purchase Price, Seller shall remit the acquisition related costs to Nazarite LLC pursuant to written instructions to be provided by Buyer prior to the Closing.

28. On or about September 1, 2000, at the direction of STEVEN MERKER and WILLIAM MERKER, a representative of TPG wired the sum of \$400,000 into Nazarite's account at Sovereign bank. Thereafter, from on or about September 12, 2000 through in or about January 2001, at the direction of STEVEN MERKER and WILLIAM MERKER, CC-1 caused cash totaling approximately \$190,000 to be withdrawn from Nazarite's account at Sovereign bank. CC-1, acting at the direction of STEVEN MERKER and WILLIAM MERKER, made certain that each of these cash withdrawals were in amounts of less than \$10,000, in an effort to evade the currency transaction reporting requirements of Sovereign bank. CC-1 then delivered these cash payments to STEVEN MERKER and WILLIAM MERKER at Standard Automotive's Park Avenue offices.

29. On or about November 14, 2000, Standard Automotive filed with the SEC a Quarterly Report for the second quarter ending September 30, 2000 on Form 10-Q (the "September 2000 10-Q"). The September 2000 10-Q was signed on behalf of the Company by STEVEN MERKER. With respect to the acquisition of TPG, the September 2000 10-Q stated, in part:

On August 31, 2000, the Company, through its Critical Components Division, acquired from Melinda A. Morrow all of the capital stock of TPG. The consideration paid for TPG was approximately \$3,322,000 consisting of a \$3,000,000 payment to the seller, subject to final adjustment, as well as acquisition related expenses of approximately \$322,000.

\* \* \*

In August 2000, the Company, through its Critical Components division, completed the acquisition of substantially all of the assets of TPG. As part of the fees and expenses related to the acquisition, Mayfair Associates, owned by William Merker, received a fee of \$203,000 for investment advisory services.

30. The statements regarding TPG contained in the September 2000 10-Q were false and misleading when made because, as STEVEN MERKER and WILLIAM MERKER well knew, among other things, they had caused Standard Automotive to pay the sellers of TPG the additional sum of approximately \$400,000, which was then wired to a nominee account controlled by CC-1. Thereafter, STEVEN MERKER and WILLIAM MERKER received a portion of those funds from CC-1 in secret, undisclosed cash payments.

31. The statements of STEVEN MERKER and WILLIAM MERKER, concerning Standard Automotive's acquisitions of Arell, Airborne, and TPG presented materially false and misleading information concerning the terms of and fees paid in connection with these transactions, and presented a materially false and misleading picture of the compensation that each received as officers and directors of Standard Automotive, and related party transactions that the Company engaged in, thereby operating as a fraud and deceit upon investors in Standard Automotive's common stock.

### The Bank Fraud Scheme

33. From in or about January 2000 through in or about March 2001, STEVEN MERKER and WILLIAM MERKER, and their co-conspirators, participated in a scheme to defraud Standard Automotive's creditors, by, among other things, making false and misleading statements, including misrepresentations and omissions, concerning the terms of Standard Automotive's acquisitions of Arell, Airborne and TPG. More specifically, STEVEN MERKER and WILLIAM MERKER failed to disclose to Standard Automotive's creditors that they had devised a scheme to cause Standard Automotive to pay substantially in excess of the negotiated purchase price for Arell, Airborne, and TPG to fund payments of purported "broker's fees" and "acquisition related expenses" to CC-1, which CC-1 in turn, used to make secret, undisclosed cash payments to STEVEN MERKER and WILLIAM MERKER.

34. At all times relevant to this Indictment, Standard Automotive obtained a number of secured syndicated bank loans to finance its acquisitions and for general corporate purposes. At all times relevant to this Indictment, Standard Automotive owed millions of dollars under these credit facilities. For example, as of in or about March 2002, at the time Standard Automotive filed for bankruptcy, Standard Automotive had outstanding debt of approximately \$91 million in secured syndicated bank loans under at least three different credit facilities.

35. In connection with the acquisitions of Arell and Airborne, and to fund its continued operations, it was necessary for Standard Automotive to seek additional credit from its lending banks. On or about April 26, 2000, Standard Automotive and its subsidiary, Critical Components Canada, obtained \$125 million in loans through various credit facilities (the "April 2000 Credit Facilities"). The participating banks in the April 2000 Credit Facilities included PNC Bank, Fleet National Bank, Summit Bank, Sovereign Bank, The Bank of New York, Key Bank USA, OceanFirst Bank, U.S. Bank National Association, and ING Barings (the "Participating Lenders"), the deposits of which, with the exception of ING Barings, were then insured by the Federal Deposit Insurance Corporation. In connection with the April 2000 Credit Facilities, Standard Automotive entered into an Amended and Restated Credit Agreement (the "April 2000 Credit Agreement") with the Participating Lenders, which required Standard Automotive to use the proceeds of the loans to finance the purchase of Arell and Airborne, to pay fees and expenses incurred in connection with those acquisitions, and for working capital and expenditures incurred in the ordinary course of business.

36. The April 2000 Credit Agreement further provided that the total cost to Standard Automotive for the Arell and Airborne acquisitions could not exceed \$30,950,000 Canadian dollars, plus certain fees as contemplated by and identified in the acquisition

agreements. The April 2000 Credit Agreement was executed on behalf of Standard Automotive by STEVEN MERKER.

37. In connection with the April 2000 Credit Agreement, Standard Automotive further agreed that unless expressly provided in the Credit Agreement it would not make "any payment to or otherwise deal with any Affiliate," except in the ordinary course of business and, in those instances, only on such fair and reasonable terms that could otherwise be obtained in a comparable arm's length transaction with an unrelated person. Further, Standard Automotive represented and warranted that the information provided to the Participating Lenders in connection with the negotiation of the April 2000 Credit Agreement did not contain "any misstatement of fact," or omit any necessary fact, "where such misstatement or omission would be material" to the interests of the Participating Lenders.

38. However, as STEVEN MERKER and WILLIAM MERKER well knew, the information provided by the MERKERS on which the banks had relied in extending credit in connection with the Arell and Airborne acquisitions was false and fraudulent concerning a number of material matters, including, but not limited to:

- (1) the actual purchase price paid by Standard Automotive for Arell and Airborne;
- (2) affiliate transactions orchestrated by the MERKERS in connection with these acquisitions;
- (3) the purported fees and expenses paid in connection with those

acquisitions; and (4) the compensation received by the MERKERS as officers and directors of Standard Automotive. As STEVEN MERKER and WILLIAM MERKER well knew, they had caused Standard Automotive to pay the sellers of Arell and Airborne the additional sum of approximately \$302,000, which was then wired to a nominee account controlled by CC-1. Thereafter, STEVEN MERKER and WILLIAM MERKER received a portion of those funds in secret, undisclosed cash payments, which were never disclosed to Standard Automotive's creditors.

39. On or about August 31, 2000, in connection with the acquisition of TPG, Standard Automotive entered into an amendment and waiver to the April 2000 Credit Agreement with the Participating Lenders (the "August 2000 Amendment") which permitted Standard Automotive to utilize \$3 million of an existing credit facility to finance the purchase of TPG. The August 2000 Amendment, however, expressly provided that the aggregate fees and expenses incurred by Standard Automotive and its subsidiaries in connection with the acquisition of TPG could not exceed \$250,000. The August 2000 Amendment was executed on behalf of Standard Automotive by STEVEN MERKER.

40. However, as STEVEN MERKER and WILLIAM MERKER well knew, the information on which the banks had relied in permitting Standard Automotive to use an existing credit facility to purchase TPG was false and fraudulent concerning a number of

material matters, including, but not limited to: (1) the actual purchase price paid by Standard Automotive for TPG; (2) affiliate transactions orchestrated by the MERKERS in connection with this acquisition; (3) the purported fees and expenses paid in connection with that acquisition; and (4) the compensation received by the MERKERS as officers and directors of Standard Automotive. As STEVEN MERKER and WILLIAM MERKER well knew, they had caused Standard Automotive to pay to the sellers of TPG the additional sum of \$400,000 to fund TPG's payment of purported "acquisition related expenses" to CC-1. CC-1 in turn, used these funds to make secret, undisclosed cash payments to STEVEN MERKER and WILLIAM MERKER, which were never disclosed to Standard Automotive's creditors.

#### **The Fraudulent Invoice Scheme**

41. In a further effort to profit personally from Standard Automotive's transactions, WILLIAM MERKER created a series of bogus invoices in which he sought payment for services purportedly rendered by him and Mayfair Associates LLC ("Mayfair Associates"), an entity that he controlled, on behalf of Standard Automotive. As a result of these false and fraudulent invoices, WILLIAM MERKER caused Standard Automotive to pay him over \$175,000 that he was not entitled to receive and that was not disclosed to Standard Automotive's shareholders or creditors in the year 2000.

42. On or about January 4, 2000, WILLIAM MERKER caused Standard Automotive to transfer \$52,140 by wire into an account held in WILLIAM MERKER's name at Salomon Smith Barney. As a purported justification for this wire transfer, WILLIAM MERKER submitted three different bogus invoices, each purportedly dated January 3, 2000. Those three invoices included:

(A) an invoice in the amount of \$52,140 for "letter of intent fees" for purported acquisition agreements between Standard Automotive and four separate companies: (1) Interstate West Corporation; (2) Wheeler Steel Works, Inc. ("Wheeler Steel"); (3) Leading Edge Aviation Services, Inc. ("Leading Edge Aviation"); and (4) TDG Aerospace, Inc. ("TDG Aerospace") (the "Letter of Intent Invoice"). The Letter of Intent Invoice was faxed from Standard Automotive's offices on Park Avenue to its offices in Hillsborough, New Jersey on January 3, 2000;

(B) an invoice in the amount of \$52,140 for "advisory and due diligence fees" purportedly regarding the acquisition of ReTech Services, Inc. ("ReTech") by Standard Automotive (the "ReTech Invoice"); and

(C) an invoice in the amount of \$52,140 for "advisory and due diligence fees" purportedly regarding Standard Automotive's acquisition of TPG (the "January 3, 2000 TPG Invoice").

43. In truth and in fact, as WILLIAM MERKER well knew, WILLIAM MERKER was not entitled to the \$52,140 payment which these three fraudulent invoices attempted to justify. WILLIAM MERKER had no written consulting agreement entitling him to these fees and Standard Automotive never acquired ReTech, Wheeler Steel, Leading Edge Aviation or TDG Aerospace. Moreover, although the TPG acquisition was completed, that transaction was not even being considered by Standard Automotive in January 2000, and WILLIAM MERKER received a separate payment of \$203,000 for advice and due diligence that he purportedly rendered in connection with Standard Automotive's acquisition of TPG that was disclosed in Standard Automotive's public filings. Further, as STEVEN MERKER and WILLIAM MERKER well knew, the \$52,140 payment was falsely and fraudulently omitted from Standard Automotive's publicly filed reports concerning WILLIAM MERKER's compensation from Standard Automotive and was not disclosed as a related party transaction to Standard Automotive's creditors in the year 2000.

44. On or about February 17, 2000, WILLIAM MERKER caused Standard Automotive to transfer \$124,200 by wire into an account held in WILLIAM MERKER's name at Salomon Smith Barney. As a purported justification for this wire transfer, WILLIAM MERKER submitted three different bogus invoices, each purportedly dated

February 17, 2000. Those three invoices included:

(A) an invoice in the amount of \$124,200 for "advisory fees" regarding the purported acquisitions by Standard Automotive of Wheeler Steel and Leading Edge Aviation;

(B) an invoice in the amount of \$124,200 for "advisory fees" regarding the purported acquisition by Standard Automotive of Standard Aircraft Services; and

(C) an invoice in the amount of \$124,200 for "advisory and due diligence fees" regarding Standard Automotive's acquisition of TPG (the "February 17, 2000 TPG Invoice").

45. In truth and in fact, as WILLIAM MERKER well knew, WILLIAM MERKER was not entitled to the \$124,200 payment which these three bogus invoices attempted to justify. WILLIAM MERKER had no written consulting agreement entitling him to these fees and Standard Automotive never acquired Wheeler Steel, Leading Edge Aviation or Standard Aircraft Services. Moreover, although the TPG acquisition was completed, that transaction was not even being considered by Standard Automotive in February 2000, and WILLIAM MERKER received a separate payment of \$203,000 for advice and due diligence that he purportedly rendered in connection with Standard Automotive's acquisition of TPG that was disclosed in Standard Automotive's public filings. Further, as STEVEN MERKER and WILLIAM MERKER well knew, the \$124,200 payment was falsely and fraudulently omitted from Standard Automotive's publicly

filed reports concerning WILLIAM MERKER's compensation from Standard Automotive and was not disclosed as a related party transaction to Standard Automotive's creditors in the year 2000.

#### **The Fraudulent Expense Report Scheme**

46. From in or about February 1999 through in or about December 2000, STEVEN MERKER and WILLIAM MERKER submitted reports to Standard Automotive's financial officers purporting to detail expenses that each had incurred in the course of conducting business on behalf of Standard Automotive. During this period, STEVEN MERKER and WILLIAM MERKER sought and received reimbursement from Standard Automotive for hundreds of thousands of dollars in fictitious and inflated business expenses.

47. From in or about February 1999 through in or about December 2000, STEVEN MERKER submitted approximately 32 expense reports from Standard Automotive's Park Avenue offices to financial officers working in Standard Automotive's Hillsborough, New Jersey offices. In these reports, STEVEN MERKER sought reimbursement for approximately \$519,000 in business expenses that he purportedly incurred on behalf of Standard Automotive. In truth, and in fact, as STEVEN MERKER well knew, these expense reports falsely and fraudulently: (1) overstated the amounts incurred as legitimate business expenses; (2) listed certain of his personal expenses as legitimate business expenses; and (3) listed fictitious business expenses. For example, STEVEN

MERKER submitted expense reports in which he sought reimbursement for expenses incurred at his neighborhood grocery stores as well as receipts from unidentified restaurants at which he had purportedly incurred business expenses.

48. From in or about January 2000 through in or about August 2000, WILLIAM MERKER submitted approximately six expense reports from Standard Automotive's Park Avenue offices to financial officers working in Standard Automotive's Hillsborough, New Jersey offices. In these reports, WILLIAM MERKER sought reimbursement for approximately \$30,000 in business expenses that he had purportedly incurred on behalf of Standard Automotive. In truth, and in fact, as WILLIAM MERKER well knew, these expense reports falsely and fraudulently: (1) overstated the amounts that he had incurred as legitimate business expenses; (2) listed certain of his personal expenses as legitimate business expenses; and (3) listed fictitious business expenses. For example, WILLIAM MERKER submitted expense reports in which he sought reimbursement for expenses incurred at his neighborhood grocery store, his medical bills as well receipts from unidentified restaurants at which he had purportedly incurred business expenses.

49. Neither STEVEN MERKER nor WILLIAM MERKER disclosed in the quarterly or annual reports filed by Standard Automotive with the SEC that each had caused Standard Automotive to pay them

thousands of dollars in business expenses that neither had actually incurred as part of their compensation as officers and directors of Standard Automotive.

**STATUTORY CHARGE**

**The Conspiracy**

50. From in or about February 1999 through in or about March 2001, in the Southern District of New York and elsewhere, STEVEN MERKER and WILLIAM MERKER, 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 securities fraud, 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) wire fraud, in violation of Title 18, United States Code, Section 1343; (c) 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, Section 78ff; and (d) to defraud financial institutions in violation of Title 18, United States Code, Sections 1344 and 20.

## The Objects of the Conspiracy

### Securities Fraud

51. It was a part and an object of the conspiracy that STEVEN MERKER and WILLIAM MERKER, 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 Standard Automotive, in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes, and artifices to defraud; (b) making and causing Standard Automotive to make untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in 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 upon investors, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

### **Wire Fraud**

52. It was a further part and an object of the conspiracy that STEVEN MERKER and WILLIAM MERKER, the defendants, and others known and unknown, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and to obtain 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 and foreign commerce numerous writings, signs, signals, pictures and sounds, for the purpose of executing such scheme and artifice to defraud, in violation of Title 18, United States Code, Section 1343.

### **False Statements In Annual And Quarterly SEC Reports**

53. It was further a part and an object of the conspiracy that STEVEN MERKER and WILLIAM MERKER, 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 which were false and misleading with respect to material facts, in violation of Title 15, United States Code, Section 78ff.

### Bank Fraud

54. It was further a part and an object of the conspiracy that STEVEN MERKER and WILLIAM MERKER, the defendants, directors and officers of Standard Automotive, and others known and unknown, unlawfully, willfully, and knowingly, would and did, directly and indirectly, execute a scheme and artifice to (1) defraud financial institutions, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and (2) obtain money, funds, credits, assets, securities and other property owned by, and under the custody or control of financial institutions, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United State Code, Sections 1344 and 20.

### Means and Methods of the Conspiracy

55. Among the means and methods by which STEVEN MERKER and WILLIAM MERKER, the defendants, and their co-conspirators would and did carry out the conspiracy were the following:

a. The defendants and their co-conspirators caused Standard Automotive to pay inflated purchase prices for certain acquisitions for the purpose of benefitting the defendants at the expense of Standard Automotive, its shareholders, and creditors.

b. The defendants and their co-conspirators received secret, undisclosed cash payments funded by the inflated

acquisition costs which the defendants caused Standard Automotive to pay.

c. The defendants and their co-conspirators created fictitious documents concerning the terms of Standard Automotive's business transactions.

d. The defendants and their co-conspirators caused Standard Automotive to file publicly with the SEC annual reports and quarterly reports that materially misstated, among other things, Standard Automotive's business transactions.

e. The defendants and their co-conspirators caused Standard Automotive to file publicly with the SEC annual reports that were false and misleading regarding the compensation that each received as officers and directors of Standard Automotive.

f. The defendants and their co-conspirators caused Standard Automotive to reimburse them for business expenses that they had not actually incurred.

g. The defendants and their co-conspirators submitted to Standard Automotive expense reports in which they fraudulently overstated legitimate business expense, as well as sought reimbursement for personal expenses and fictitious business expenses.

h. The defendants and their co-conspirators provided false financial information to banks in connection with loans extended to Standard Automotive.

i. The defendants and their co-conspirators used and employed the means and instrumentalities of interstate commerce, including interstate telephone calls, facsimilies, wire transfers, and mailings.

**Overt Acts**

56. In furtherance of the conspiracy and to effect its unlawful objects, the following overt acts, among others, were committed, in the Southern District of New York and elsewhere:

a. On or about August 24, 2000, in Wyomissing, Pennsylvania, CC-1 caused a bank account to be opened in the name of Nazarite, LLC at Sovereign bank.

b. On or about February 28, 2000, in Wyomissing, Pennsylvania, CC-1 caused a bank account to be opened in the name of GD Squared, LLC at Sovereign bank.

c. On or about March 3, 2000, in New York, New York, STEVEN MERKER executed a Stock Purchase Agreement relating to Standard Automotive's acquisition of Arell.

d. On or about March 3, 2000, in New York, New York, STEVEN MERKER signed a letter agreement concerning the terms of the Arell acquisition.

e. On or about March 3, 2000, in New York, New York, STEVEN MERKER executed a Stock Purchase Agreement relating to Standard Automotive's acquisition of Airborne.

f. On or about March 3, 2000, in New York, New York,

STEVEN MERKER signed a letter agreement concerning the terms of the Airborne acquisition.

g. On or about May 1, 2000, in Montreal, Canada, a representative of Arell and Airborne wired approximately \$302,000 into GD Squared's account at Sovereign bank.

h. In or about May 2000 through in or about August 2000, in New York, New York, STEVEN MERKER and WILLIAM MERKER instructed CC-1 to withdraw cash from GD Squared's account and deliver those cash payments to them at Standard Automotive's Park Avenue offices.

i. On or about May 3, 2000, in Reading, New Jersey, CC-1 caused \$8,000 in cash to be withdrawn from GD Squared's account at Sovereign bank.

j. On or about May 12, 2000, in Reading, New Jersey, CC-1 caused \$9,100 in cash to be withdrawn from GD Squared's account at Sovereign bank.

k. On or about June 26, 2000, in Hillsborough, New Jersey, a check payable to STEVEN MERKER in the amount of \$28,543.64 was sent by federal express to STEVEN MERKER at Standard Automotive's Park Avenue offices as reimbursement for purported business expenses.

l. On or about June 29, 2000, in New York, New York, STEVEN MERKER signed a Form 10-K on behalf of Standard Automotive that was filed with the SEC, which contained misrepresentations

regarding the terms of Standard Automotive's acquisition of Arell and Airborne, and the compensation received by STEVEN MERKER and WILLIAM MERKER as officers and directors of Standard Automotive.

m. On or about July 25, 2000, in Reading, New Jersey, CC-1 caused \$9,000 in cash to be withdrawn from GD Squared's account at Sovereign bank.

n. On or about August 29, 2000, in New York, New York, STEVEN MERKER signed a letter agreement concerning the terms of the TPG acquisition.

o. On or about August 31, 2000, in New York, New York, STEVEN MERKER executed a Stock Purchase Agreement relating to Standard Automotive's acquisition of TPG.

p. On or about September 1, 2000, in Knoxville, Tennessee, a representative of TPG wired approximately \$400,000 into Nazarite's account at Sovereign bank.

q. From in or about September 2000 through in or about January 2001, in New York, New York, STEVEN MERKER and WILLIAM MERKER instructed CC-1 to make withdrawals in cash from Nazarite's account at Sovereign bank and deliver those cash payments to them at Standard Automotive's Park Avenue offices.

r. On or about September 28, 2000, in Reading, New Jersey, CC-1 caused \$8,000 in cash to be withdrawn from Nazarite's bank account at Sovereign bank.

s. On or about October 4, 2000, in Reading, New

Jersey, CC-1 caused \$8,000 in cash to be withdrawn from Nazarite's bank account at Sovereign bank.

t. On or about October 25, 2000, in Hillsborough, New Jersey, a check payable to STEVEN MERKER in the amount of \$11,095.97 was sent by federal express to STEVEN MERKER at Standard Automotive's Park Avenue offices as reimbursement for purported business expenses.

u. On or about November 21, 2000, in Reading, New Jersey, CC-1 caused \$9,000 in cash to be withdrawn from Nazarite's bank account at Sovereign bank.

v. In or about 2000, STEVEN MERKER and WILLIAM MERKER provided false financial information to financial institutions with which Standard Automotive had credit facilities in place.

w. On or about November 14, 2000, in New York, New York, STEVEN MERKER signed a Form 10-Q on behalf of Standard Automotive that was filed with the SEC, which contained misrepresentations and omissions regarding the terms of Standard Automotive's acquisition of TPG.

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

COUNT TWO

(Securities Fraud)

The Grand Jury further charges:

57. The allegations contained in paragraphs 1 through 49 and paragraphs 55 and 56 are repeated and realleged as if fully set forth herein.

58. From in or about January 2000 through in or about March 2001, in the Southern District of New York and elsewhere, STEVEN MERKER and WILLIAM MERKER, the defendants, unlawfully, wilfully, and knowingly, by the use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national exchanges, directly and indirectly, would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in contravention 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 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 upon investors in Standard Automotive common stock.

(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.)

**COUNTS THREE THROUGH FIVE**

(False Filings With The SEC)

The Grand Jury further charges:

59. The allegations of paragraphs 1 through 49, 55, and 56 of this Indictment are repeated and realleged as though fully set forth herein.

60. On or about the dates listed below, in the Southern District of New York, the District of Columbia, and elsewhere, STEVEN MERKER and WILLIAM MERKER, the defendants, unlawfully, willfully, and knowingly, made and caused to be made statements in reports and documents, namely, the public filing for Standard Automotive identified below, which was required to be filed with the SEC under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, which were false and

misleading with respect to certain material facts set forth above:

COUNT	RELEVANT REPORT	DATE OF FILING
THREE	Form 10-K for the Year 2000	06/29/00
FOUR	Form 10-Q for the First Quarter of 2000	8/14/00
FIVE	Form 10-Q for the Second Quarter of 2000	11/14/00

(Title 15, United States Code, Sections 78m(a) and 78ff; Title 17, Code of Federal Regulations, Sections 240.13a-1 and 240.13a-13; and Title 18, United States Code, Section 2.)

**COUNT SIX**

(Bank Fraud)

The Grand Jury further charges:

61. The allegations of paragraphs 1 through 49, 55, and 56 of this Indictment are repeated and realleged as though fully set forth herein.

62. From in or about January 2000 through in or about March 2001, in the Southern District of New York and elsewhere, STEVEN MERKER and WILLIAM MERKER, the defendants, unlawfully, willfully, and knowingly, directly and indirectly, executed and attempted to execute a scheme and artifice to (1) defraud financial institutions, namely, the financial institutions named in paragraph 35 above, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and (2) obtain money,

funds, credits, assets, securities and other property owned by, and under the custody or control of those financial institutions, by means of the false and fraudulent pretenses, representations, and promises set forth above.

(Title 18, United State Code, Sections 1344, 20 and 2.)

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FOREPERSON

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JAMES B. COMEY  
United States Attorney