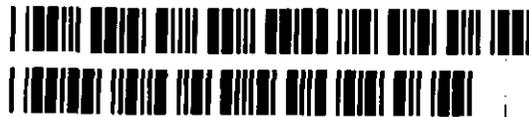


1
2 Presented to the Court by the foreman of the
3 Grand Jury in open Court, in the presence of
4 the Grand Jury and FILED in The U.S.
5 DISTRICT COURT at Seattle, Washington.



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MAY 3 2007
BRUCE RIFKIN, Clerk
Deputy

By  UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 THOMAS TURNER,

12 Defendant.

NO. CR05-355C

SUPERSEDING INDICTMENT

14 THE GRAND JURY CHARGES THAT:

15 I.

16 GENERAL ALLEGATIONS

17 At all times material herein:

18 A. THE CORPORATIONS

19 1. Metropolitan Mortgage and Securities Company, Inc. (hereinafter "Met")
20 was a corporation headquartered in Spokane, Washington engaged in the business of,
21 among other things, commercial loans and real estate sales. Met was part of a group of
22 affiliated, privately-held, jointly-run companies with a common majority owner. Those
23 affiliated companies included Met subsidiaries Western United Holding Company and
24 Western United Life Assurance Company (hereinafter "WULA"), an insurance company
25 registered in the State of Washington, and Met sister company Summit Securities, Inc.
26 (hereinafter "Summit"), and its subsidiary Old Standard Life Insurance Company
27 (hereinafter "Old Standard"), an insurance company registered in the State of Idaho.

28 2. Met and its subsidiary Western United Holding Company each were issuers

1 of a class of securities registered pursuant to Section 12 of the Securities and Exchange
2 Act of 1934 and were required to file independently audited consolidated financial
3 statements with the Securities and Exchange Commission (hereinafter "SEC"). Summit
4 was also an issuer of a class of securities registered pursuant to Section 12 of the
5 Securities and Exchange Act of 1934 and, along with its subsidiary Old Standard, was
6 required to file an independently audited consolidated financial statement with the SEC.

7 **B. THE DEFENDANT**

8 3. Defendant **THOMAS TURNER** was president and a director of Summit
9 and an employee and an executive officer of Met. His responsibilities included
10 structuring investment and commercial loan transactions on behalf of Met and Summit
11 and their subsidiaries.

12 **C. THE TRANSACTION**

13 4. Beginning in or about July 2002 and continuing through in or about
14 September 2002, Met began negotiating a deal with one of its existing borrowers
15 (hereinafter "T Corporation") to create a joint venture in which, generally, Met, Summit
16 or one of their affiliated companies would loan money to T Corporation and both Met and
17 T Corporation would contribute real property for the purpose of investment and property
18 development. Defendant **TURNER** led the negotiations on behalf of Met.

19 5. Beginning in about August of 2002, defendant **TURNER** and another
20 individual employed by Met telephoned Met's outside accountants at the accountants'
21 offices in Seattle to ask for advice regarding accounting treatment for the proposed joint
22 venture with T Corporation. Defendant **TURNER** and the other Met employee indicated
23 that Met sought, through the proposed joint venture, to record an immediate gain, or
24 profit, on the joint venture, as opposed to having to wait until future years to record a
25 profit. Based on the proposed joint venture as represented by **TURNER** and the other
26 Met employee, the accountants advised that Met would not be able to record an
27 immediate profit because the proposed joint venture failed to satisfy certain accounting
28 rules that governed the recording of an immediate profit on real estate transactions.

1 6. Subsequently, **TURNER** and the other Met employee telephoned Met's
2 outside accountants several times with modified versions of the originally proposed joint
3 venture, each time seeking advice about Met's ability to record an immediate profit. Each
4 time, Met's accountants advised that the modified joint venture proposals failed to satisfy
5 the accounting rules for recording an immediate profit. Met's outside accountants
6 informed **TURNER** and the other Met employee that a significant reason the proposals
7 failed to meet the requirements of the applicable accounting rules was that the purchaser
8 of Met's property was T Corporation, which, in the joint venture scenarios, was not acting
9 as an independent third-party purchaser of the property Met was seeking to sell.

10 7. In approximately mid-September 2002, **TURNER** telephoned Met's outside
11 accountants and informed them that Met had located an independent third-party purchaser
12 for its property. **TURNER** represented certain facts to Met's outside accountants about
13 the *bona fides* of the purported purchaser. Based upon **TURNER'S** representations as to
14 the proposed transactions, Met's outside accountants preliminarily agreed that the deal
15 may satisfy the requirements of the accounting rules for recording an immediate profit,
16 subject to an audit of Met's fiscal year 2002 financial statements. Met's fiscal year ended
17 September 30, 2002.

18 8. In the last week of September 2002, prior to the end of its fiscal year, Met
19 closed two transactions, among others: (a) a loan of approximately \$17.6 million from
20 Summit subsidiary Old Standard to the T Corporation secured by T Corporation's timber
21 property; and (b) the sale of two parcels of undeveloped real property owned by Met and
22 its subsidiary WULA, one in Everett, Washington and the other near San Antonio, Texas,
23 to a corporation newly formed by the purported independent third-party purchaser
24 (hereinafter "JP") for a total of approximately \$24 million. Met and WULA financed the
25 sale of the properties and JP provided a 20% cash down payment on each parcel. An
26 agent of JP (hereinafter "DS") contributed the cash down payment on behalf of JP. The
27 source of JP's down payments was the Old Standard loan to the T Corporation.

28 9. Met recorded an immediate profit of approximately \$10 million on the sale

1 of the Everett and San Antonio properties to JP. Without this transaction, Met would
2 have reported a net loss on its consolidated financial statements for the 2002 fiscal year.

3 D. THE AUDIT

4 10. Between approximately September and December of 2002, Met's outside
5 accountants conducted an audit of Met's and Summit's 2002 fiscal year financial
6 statements and specifically examined the sale of property to JP. Based on the
7 representations of **TURNER** and others at Met, and various documents provided by Met,
8 Met's outside accountants concurred with the recording of immediate profit on the sale of
9 the Everett and San Antonio properties to JP.

10 11. On or about December 31, 2002 pursuant to the rules and regulations of the
11 SEC, Met and Summit each submitted their audited consolidated financial statements to
12 the SEC in a report known as a Form 10-K. Met's audited financial statement included
13 the approximately \$10 million in profit Met recorded from the sale of property to JP.

14 E. THE SUBSEQUENT INVESTIGATION

15 12. In approximately September of 2003, Met's outside accountants were
16 conducting an audit of Met's 2003 financial statements when the accountants discovered
17 Met internal documents that raised questions about the way in which the 2002 sale of
18 property to JP had been recorded. Met internal auditors and Met's outside accountants
19 each began investigations which included document review and interviews with
20 **TURNER** and others. The investigations revealed, in summary, that JP was not truly an
21 independent third-party purchaser of Met's property as **TURNER** had represented, and
22 that **TURNER** was aware of this before the 2002 audit had been completed.

23 13. These investigations concluded in approximately January of 2004 and
24 resulted in, among other things, Met deciding to reverse the \$10 million profit it had
25 recorded on its financial statements in 2002 from the sale of property to JP. Additionally,
26 Met's outside accountants withdrew their audit opinion on the 2002 financial statements
27 and resigned, based on, among other reasons, **TURNER's** misrepresentations and
28 omissions about the sale of property to JP.

II.

COUNT 1

(False and Misleading Statements to Accountants of a Securities Issuing Company)

14. Sections A through E of the General Allegations section of this Indictment are realleged here as though fully set forth herein.

15. In or about mid September 2002, the exact date being unknown to the Grand Jury, at Seattle, Washington, within the Western District of Washington, and elsewhere, the defendant, **THOMAS TURNER**, knowingly and willfully made, and caused to be made, materially false and misleading statements to Met's accountants in connection with the audit, review and examination of financial statements of Met and Summit, required by law to be made, and the preparation and filing of documents and reports, namely Met's and Summit's 2002 Form 10-K reports, required to be filed with the SEC pursuant to rules and regulations enacted by the SEC.

16. Specifically, **TURNER** made and caused to be made the following false and misleading statements in telephone conversations with Met's outside accountants who at the time were located in their offices in Seattle:

a. that JP and DS constituted an independent, third-party purchaser and that DS was interested in purchasing the properties, when, in truth and in fact, as **TURNER** then well knew, representatives of T Corporation were negotiating JP's purchase of the properties, and DS had expressed that he was participating in the transaction as a favor to the T Corporation, and did not want his cash down payment contribution at risk in the transaction;

b. that Old Standard's decision to loan \$17.6 million to the T Corporation was independent of Met's sale of properties to JP, when, in truth and in fact, as **TURNER** then well knew, Old Standard's loan to the T Corporation was contingent, by oral agreement, on JP's purchase of the properties from Met.

All in violation of Title 15, United States Code, Section 78m(a), (b)(2), 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-2; and Title 18, United States

1 Code, Section 2.

2 COUNT 2

3 (Material Omissions to Accountants of a Securities Issuing Company)

4 17. Sections A through E of the General Allegations section of this Indictment
5 are realleged here as though fully set forth herein.

6 18. On or about December 18, 2002, in Seattle, Washington, within the
7 Western District of Washington, and elsewhere, the defendant, **THOMAS TURNER**,
8 knowingly and willfully omitted to state material facts necessary in order to make
9 statements made, in light of the circumstances under which the statements were made,
10 not misleading, to Met's accountants in connection with the audit, review and
11 examination of financial statements of Met and Summit, required by law to be made, and
12 the preparation and filing of documents and reports, namely Met's and Summit's 2002
13 Form 10-K reports, required to be filed with the SEC pursuant to rules and regulations
14 enacted by the SEC.

15 19. Specifically, **TURNER** knew, and omitted to state, the following material
16 facts in a memorandum titled "Review of interest rate on sale to [JP]" which purported to
17 justify the interest rate Met charged for the financing of the sale of properties to JP, sent
18 from Met's offices in Spokane to the offices of Met's outside accountants in Seattle:

19 a. that representatives of T Corporation had negotiated JP's purchase of
20 the properties;

21 b. that DS had expressed that he was participating in the transaction as
22 a favor to the T Corporation, and did not want his cash down payment contribution at risk
23 in the transaction;

24 c. that a representative of T Corporation had expressed that DS's down
25 payment contribution would be secured, collateralized and otherwise protected;

26 d. that JP's purchase of properties from Met was contingent, by oral
27 agreement, on Old Standard's \$17.6 million loan to the T Corporation;

28 e. that a representative of T Corporation and **TURNER** had orally

1 **TURNER** then well knew, Old Standard's \$17.6 million loan to the T Corporation was
2 contingent, by oral agreement, on JP's purchase of properties from Met;

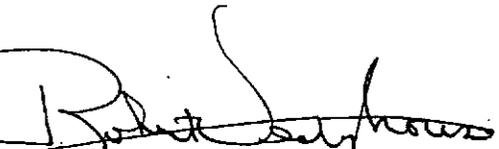
3 c. that loans had been correctly described in the financial statements in
4 all material respects, when, in truth and in fact, as **TURNER** then well knew, Old
5 Standard's \$17.6 million loan to the T Corporation was contingent, by oral agreement, on
6 JP's purchase of properties from Met, and that oral agreement had not been described in
7 the financial statements.

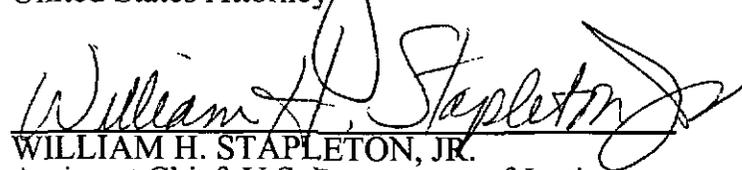
8 All in violation of Title 15, United States Code, Section 78m(a), (b)(2), 78ff; Title
9 17, Code of Federal Regulations, Section 240.13b2-2; and Title 18, United States Code,
10 Section 2.

11 A TRUE BILL:

12 DATED:

13
14 [SIGNATURE REDACTED]
15 FOREPERSON

16
17 
18 _____
19 JEFFREY C. SULLIVAN
United States Attorney

20
21 
22 _____
23 WILLIAM H. STAPLETON, JR.
Assistant Chief, U.S. Department of Justice
Criminal Division, Fraud Section

24
25 
26 _____
27 JOSEPH A. CAPONE
Trial Attorney, U.S. Department of Justice
Criminal Division, Fraud Section