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DISTRICT OF ARIZONA
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

CR '09 - 372 PHX SRB LOA

United States of America,

Plaintiff,

vs.

1) Martin G. Fraser
(Counts 1-29),

and

2) Don W. Watson
(Counts 1-28, 30-31),

Defendants.

INDICTMENT

VIO: 18 U.S.C. § 371
(Conspiracy)
Count 1

15 U.S.C. §§ 78j(b) and 78ff
(Securities Fraud)
Counts 2-7

15 U.S.C. §§ 78m(a) and 78ff
(False Filing with SEC)
Counts 8-13

18 U.S.C. §§ 1341 and 1346
(Mail Fraud)
Counts 14-21

15 U.S.C. §§ 78m(b)(2)(A),
78m(b)(5), and 78ff
(False Books and Records)
Counts 22-23

15 U.S.C. § 78ff
(False Statements to Auditor)
Counts 24-29

18 U.S.C. § 1350(c)
(False Certification of Financial
Reports)
Counts 30-31

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

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INTRODUCTORY ALLEGATIONS

The Company

1. CSK Auto Corporation (CSK) was a Delaware corporation headquartered in Phoenix, Arizona. CSK was a specialty retailer of automotive parts and accessories. It operated over 1,100 stores in the Western United States under three brand names: Checker Auto Parts, Schucks Auto Supply, and Kragen Auto Parts.

2. CSK was a publicly traded company, and its stock was registered with the Securities and Exchange Commission (SEC) pursuant to Section 12(b) of the Securities Exchange Act of 1934. Its stock traded under the symbol CAO on the New York Stock Exchange, a national securities exchange.

Defendants

3. MARTIN G. FRASER (FRASER), a resident of Glendale, Arizona, was the president and chief operating officer of CSK. He was employed by CSK until in or about September 2006.

4. DON W. WATSON (WATSON), a resident of Gilbert, Arizona, was a senior vice president and chief financial officer (CFO) at CSK until in or about October 2005, at which time he was replaced as CFO and became the chief administrative officer. He was employed by CSK until in or about September 2006.

Identified Co-Conspirators

5. Edward William O'Brien III (O'Brien), a co-conspirator not named as a defendant herein, was a vice president and controller of CSK from in or about March 2003 through in or about September 2006.

1 6. Gary Michael Opper (Opper), a co-conspirator not named as a defendant
2 herein, was the director of credit and receivables for CSK from in or about April 2001
3 through in or about September 2006. Opper supervised collections of vendor allowances
4 beginning in or about March 2003 through in or about September 2006.

5
6 The Federal Securities Laws and SEC Rules and Regulations

7 7. The SEC was an independent agency of the United States government that was
8 charged by law with preserving honest and efficient markets in securities. The federal
9 securities laws, regulations, and rules were designed to ensure that the financial information
10 of publicly traded companies was accurately recorded and disclosed to the investing public.
11 As a publicly traded company, CSK and its directors, officers, and employees were required
12 to comply with the federal securities laws, regulations, and rules.
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15 8. Under the federal securities laws and regulations, CSK was required, among
16 other things: (a) to make and keep books, records, and accounts that accurately and fairly
17 reflected the company's business transactions; (b) to devise and maintain a system of internal
18 accounting controls that provided reasonable assurances that the company's financial
19 transactions were recorded in a manner that would permit the preparation of financial
20 statements in conformity with Generally Accepted Accounting Principles (GAAP); and (c) to
21 file with the SEC annual reports (known as SEC Forms 10-K), quarterly reports (known as
22 SEC Forms 10-Q), and other periodic reports that included accurate and reliable financial
23 statements prepared in accordance with GAAP.
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26 9. As a publicly traded company, CSK also was required to retain an independent
27 auditor to review, audit, and test its financial statements for compliance with appropriate
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1 accounting rules. During quarterly reviews and annual audits, CSK's independent auditor
2 routinely tested whether CSK properly recognized revenue and vendor allowances from
3 selected transactions based on financial information provided to it by CSK. The auditor's
4 testwork was intended to, in part, confirm that CSK was reasonably assured of being able to
5 collect the revenue and vendor allowances CSK claimed it was owed.
6

7 CSK's "Let's Work Together" Program

8 10. CSK purchased hundreds of millions of dollars worth of parts and accessories
9 every year from vendors. CSK entered into agreements with many vendors to receive
10 discounts, or allowances, for products CSK purchased in exchange for CSK using the
11 allowances, generally, for marketing of the vendors' products for sale in its stores. Among
12 the different types of vendor allowances CSK received, the Let's Work Together (LWT)
13 vendor allowance program was the largest and most lucrative for CSK. CSK typically
14 entered into one-year LWT agreements with vendors, and each year was designated a
15 "program year." When properly accounting for LWT allowances, CSK generally would
16 treat them as a reduction to its cost of sales, which would reduce CSK's expenses and
17 therefore increase its income.
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21 11. One way CSK collected LWT allowances was by issuing a "debit memo,"
22 which notified a vendor that CSK was deducting the amount of the LWT allowance from the
23 amount CSK owed the vendor for the purchase of its products. If CSK issued a debit memo
24 to collect more than it should have, it refunded the excess to vendors with a "credit memo,"
25 also known as a "payback," which notified vendors that CSK was increasing the amount it
26 owed to the vendor by a corresponding amount.
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COUNT ONE

Conspiracy

(18 U.S.C. § 371)

12. The allegations in paragraphs 1 through 11 in the Introductory Allegations section are realleged as if fully set forth herein.

13. From in or about January 2001 through in or about October 2006, within the District of Arizona and elsewhere, the defendants

MARTIN FRASER
and
DON WATSON,

did unlawfully, knowingly, and intentionally combine, conspire, confederate, and agree together and with others known and unknown to the Grand Jury to commit offenses against the United States, namely:

a. securities fraud, that is, by the use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, directly and indirectly use and employ manipulative and deceptive devices and contrivances in violation of 17 C.F.R. § 240.10b-5 in connection with the purchase and sale of CSK securities, 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 and deceit upon a person in connection with the purchase and sale

1 of securities, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and
2 Title 17, Code of Federal Regulations, Section 240.10b-5;

3 b. false filings with the SEC, that is, to make and cause to be made
4 statements in reports and documents required to be filed with the SEC under the Securities
5 Exchange Act of 1934 and rules and regulations promulgated thereunder, which statements
6 were false and misleading with regard to material facts, and failing to provide such further
7 material information as was necessary to make the statements therein, in light of the
8 circumstances in which they were made, not misleading, in violation of Title 15, United
9 States Code, Sections 78m(a) and 78ff, and Title 17, Code of Federal Regulations, Sections
10 240.12b-20, 240.13a-1, and 240.13a-13;

11 c. false books and records, that is, directly and indirectly, to falsify and
12 cause to be falsified books, records, and accounts of CSK, in violation of Title 15, United
13 States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff, and Title 17, Code of Federal
14 Regulations, Section 240.13b2-1;

15 d. false statements to auditors, that is, to make and cause to be made
16 materially false and misleading statements, and to omit to state and cause others to omit to
17 state material facts, necessary to make the statements made not misleading, to CSK's
18 independent auditor, in connection with an examination of the financial statements, quarterly
19 review, and the preparation and filing of a document and report required to be filed with the
20 SEC, in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of Federal
21 Regulations, Section 240.13b2-2; and
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1 e. mail fraud, that is, having devised and intended to devise a scheme and
2 artifice to defraud, and to deprive another of the intangible right of honest services, and to
3 obtain money and property by means of false and fraudulent pretenses, representations, and
4 promises, for the purpose of executing such scheme and artifice, placed in any post office
5 and authorized depository for mail matter, any matter and thing whatever to be sent and
6 delivered by the Postal Service, and deposited and caused to be deposited any matter and
7 thing whatever to be sent and delivered by any private and commercial interstate carrier, and
8 took and received therefrom, any such matter and thing, and knowingly caused to be
9 delivered by mail and such carrier according to the direction thereon, and at the place at
10 which it was directed to be delivered by the person to whom it was addressed, any such
11 matter and thing, in violation of Title 18, United States Code, Sections 1341 and 1346.

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15 **PURPOSES OF THE CONSPIRACY**

- 16 14. Among the purposes of the conspiracy were to:
- 17 a. falsely and fraudulently misstate CSK's expenses and income;
 - 18 b. mislead the investing public, shareholders, independent auditor, the
19 board of directors, and others about CSK's true financial position; and
 - 20 c. personally enrich the conspirators through bonuses, salary, and
21 maintaining their positions within CSK.
- 22
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24 **MANNER AND MEANS OF THE CONSPIRACY**
25 **AND THE SCHEME TO DEFRAUD**

- 26 15. Among the manner and means by which WATSON, FRASER, and other co-
27 conspirators, known and unknown to the Grand Jury, would and did carry out the conspiracy
28

1 included, but were not limited to, the following:

2 a. WATSON, FRASER, and other co-conspirators engaged in a scheme to
3 manipulate CSK's earnings, primarily by hiding LWT allowances that CSK had recognized,
4 could not collect, and therefore should have written off, which would have resulted in
5 increased expenses and decreased income. They also manipulated earnings by causing CSK
6 to fail to write off other uncollectible balances and by causing CSK to recognize vendor
7 allowances and other income that CSK had not in fact earned.

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9 b. WATSON, FRASER, and other co-conspirators caused CSK to conceal
10 tens of millions in uncollectible LWT receivables by, in effect, moving the uncollectible
11 receivables from a prior to a subsequent LWT program year. Their fraudulent actions caused
12 it to appear that the uncollectible LWT receivable balances had been collected, when in fact
13 they had merely been moved to a subsequent accounting year. The conspirators used the
14 following deceptive devices to hide the uncollectible receivables:
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17 i. causing CSK to issue debit memos to vendors, generally
18 delivered via the U.S. mail, to collect amounts already recognized in a current LWT program
19 year and misapply the collections to prior LWT program years;

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21 ii. causing CSK to issue debit memos to vendors to collect
22 allowances the conspirators knew that CSK had not earned, had already collected, or had
23 refunded;

24
25 iii. causing CSK to record sham journal entries that moved LWT
26 collections for a current program year to cover shortfalls in prior LWT program years and
27 that moved uncollectible LWT receivable balances from prior to subsequent LWT program
28

years;

iv. causing CSK to issue credit memos, generally delivered via the U.S. mail, to refund over-collections of vendor allowances and misapply them as increases to a current or subsequent year LWT account receivable as opposed to writing them off; and

v. causing CSK to misallocate off-invoice collections of vendor allowances related to a current year as collections for prior LWT program years.

c. WATSON, FRASER, and other co-conspirators caused CSK to conceal uncollectible LWT receivables that should have been written off, including:

i. in fiscal year 2002, approximately \$10 million in uncollectible receivables;

ii. in fiscal year 2003, approximately \$24 million in uncollectible receivables; and

iii. in fiscal year 2004, approximately \$19 million in uncollectible receivables.

d. WATSON, FRASER, and other co-conspirators caused CSK to mask uncollectible allowances by entering into related agreements with vendors where the link between the agreements was not disclosed to CSK's independent auditor.

e. WATSON, FRASER, and other co-conspirators caused CSK to overstate vendor allowances and other income.

f. WATSON, FRASER, and other co-conspirators made and caused others to make false and fraudulent entries in CSK's books and records to conceal uncollectible LWT receivables.

1 g. WATSON, FRASER, and other co-conspirators provided and caused
2 others to provide false and misleading information to CSK's board of directors and its audit
3 committee with regard to vendor allowances.

4 h. WATSON, FRASER, and other co-conspirators provided and caused
5 others to provide false and misleading information to CSK's independent auditor by, among
6 other things:
7

8 i. providing the auditor altered spreadsheets omitting evidence of
9 balances, collections, and paybacks moved between LWT program years;
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11 ii. making misstatements of fact and intentionally omitting material
12 information in documents provided to the auditor;

13 iii. withholding from the auditor documents demonstrating the
14 movement of collections and paybacks between LWT program years;
15

16 iv. making false and misleading statements to the auditor during
17 discussions related to the collections of LWT accounts receivable; and
18

19 v. signing management representation letters confirming the
20 accuracy of CSK's SEC filings when they knew the SEC filings were false.

21 i. WATSON, FRASER, and other co-conspirators caused CSK to file with
22 the SEC false and fraudulent Forms 10-K and Forms 10-Q misstating CSK's practice with
23 regard to uncollectible receivables, its receivables balance, and its pre-tax income.
24

25 OVERT ACTS

26 16. In furtherance of the aforementioned conspiracy and to effect the objects
27 thereof, defendants WATSON, FRASER, and others performed the following overt acts in
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1 the District of Arizona and elsewhere:

2 LWT Allowances

3 Recognition Issues, Shortfalls, and Moved Collections

4 a. On or about April 9, 2001, WATSON and FRASER met with and
5 rejected a proposal by CSK's controller to implement an alternative model for recognizing
6 LWT allowances based on a "conservative approach" of not recognizing funds until
7 specified purchase level thresholds had been met.
8

9 b. On or about June 7, 2002, WATSON sent an email to a CSK employee
10 advising him that any paybacks had to be covered with incremental funds because "the
11 Company could not afford a charge for any paybacks."
12

13 c. On or about June 28, 2002, FRASER and others resolved a dispute with
14 a vendor to permit an invalid collection for \$2 million to remain in CSK's 2001 LWT
15 program year in exchange for CSK forgoing collections of \$2 million in the 2002 and 2003
16 LWT program years.
17

18 d. On or about August 29, 2002, WATSON participated in an earnings
19 conference call with Wall Street analysts and stated, with regard to recognizing LWT funds
20 with specified purchase level thresholds, that CSK did not recognize the increased amounts
21 until the thresholds were met.
22

23 e. On or about November 11, 2002, WATSON requested a "[l]isting of
24 2002 funds to cover 2001 shortfalls" and consequently obtained a spreadsheet showing
25 "LWT 2001 Uncollectible Funds" of approximately \$4.9 million.
26

27 f. On or about November 22, 2002, WATSON requested an employee to
28

1 prepare a listing of collections that could be taken from LWT 2003 and moved to LWT
2 2002.

3 g. On or about September 9, 2003, Opper sent an email to WATSON,
4 FRASER, O'Brien, and others stating, among other things, that approximately \$9.6 million
5 in 2003 LWT collections had been moved to the 2002 LWT account receivable to cover
6 "short falls from prior periods."
7

8 h. On or about November 26, 2003, O'Brien emailed WATSON a
9 spreadsheet that, among other things, detailed an approximately \$28 million uncollectible
10 balance in the 2003 LWT receivable due to shortfalls and paybacks related to the 2000
11 through 2002 LWT program years.
12

13 i. On or about December 28, 2004, Opper prepared a schedule with the
14 footer "2004 LWT Budget vs Estimate for Don W 12-28-2004.xls LWT Recap" that detailed
15 approximately \$24 million of uncollectible balances in the 2004 and 2005 LWT receivables.
16

17 j. On or about April 25, 2005, WATSON and FRASER participated in a
18 conference call with a vendor in which they negotiated a settlement of a disputed receivable
19 balance by agreeing that CSK would accept a price increase in the vendor's products in
20 exchange for the vendor paying a portion of the disputed receivable.
21

22 k. On or about April 25, 2005, WATSON and FRASER participated in a
23 second conference call with the same vendor in which FRASER insisted that the vendor and
24 CSK memorialize in separate documents the agreement for the vendor to accept a portion of
25 the disputed receivable and the agreement for CSK to accept the vendor's price increase, and
26 FRASER requested that the vendor backdate one of the agreements to April 1, 2005.
27
28

Improper Journal Entries, Debit Memos, and Credit Memos

1
2 i. WATSON, O'Brien, and Opper caused CSK to issue debit memos for
3 the 2003 LWT program year, sent to vendors via the U.S. mail, and to apply the collections
4 to the 2002 LWT program year, which included the following debit memos issued on or
5 about July 9, 2003:
6

<u>Paragraph #</u>	<u>Debit Memo Number</u>	<u>Vendor</u>	<u>Amount</u>	
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	i.	D2309655LWT	Auto-Shade, Inc.	\$192,585.15
	ii.	D2309645LWT	Prestone Anti-Freeze	\$123,588.22
	iii.	D2309647LWT	Honeywell/Allied Aftermarket	\$840,510.31

13
14 m. WATSON, O'Brien, and Opper caused CSK to issue debit memos for
15 the 2004 LWT program year, sent to vendors via the U.S. mail, and to apply the collections
16 to the 2003 LWT program year, which included the following debit memos issued on or
17 about July 8, 2004:
18

<u>Paragraph #</u>	<u>Debit Memo Number</u>	<u>Vendor</u>	<u>Amount</u>	
19 20 21 22 23 24 25 26 27 28	i.	D2412458LWT	Prestone Anti-Freeze	\$286,683.95
	ii.	D2412464LWT	Prestone Car Care	\$183,613.64
	iii.	D2412453LWT	Four Seasons Hayden	\$6,806.89

25 n. On or about October 13, 2003, WATSON, FRASER, O'Brien, and
26 Opper caused CSK to execute a journal entry moving approximately \$9.3 million from the
27 2002 LWT account receivable to the 2003 LWT account receivable.
28

1 o. On or about October 15, 2003, Opper signed off on credit memo
2 PD2209932LS to Chevron Chemical to pay back \$1,260,346 from the 2002 LWT program
3 year and apply the balance to the 2003 LWT program year as an increase in the account
4 receivable.

5
6 p. On or about March 30, 2004, WATSON signed off on credit memo
7 PD2210001LS to Four Seasons Hayden to pay back \$150,000 from the 2002 LWT program
8 year and apply it to the 2004 LWT program year as an increase in the account receivable.

9
10 q. In or about January 2005, in connection with a settlement of a dispute
11 with a vendor related to LWT allowances from 2004 and earlier, WATSON authorized a
12 credit memo paying back to the vendor approximately \$2.7 million and recording it as an
13 increase to the 2005 LWT account receivable.

14
15 July 2005 False Debit Memos

16 r. On or about June 8, 2005, Opper prepared a spreadsheet for the 2004
17 LWT program showing columns titled "04 LWT included in 03 incremental," "Off Invoice
18 Moved to 03," "Q2 Billbacks Moved to 03" and "Paybacks."

19
20 s. In or about June 2005, WATSON, O'Brien, and Opper discussed a
21 spreadsheet showing that the 2004 LWT receivable balance contained uncollectible amounts.

22
23 t. In or about July 2005, WATSON instructed O'Brien and Opper to
24 ensure the collection of the full 2004 LWT receivable balance, including the uncollectible
25 amounts.

26 u. In or about mid-July 2005, Opper instructed subordinates to prepare
27 false debit memos containing known uncollectible amounts.
28

1 v. On or about August 12, 2005, WATSON sent an email to managers in
2 the Merchandising Department, copying FRASER and O'Brien, indicating that the
3 collections had been based on contract interpretations and that WATSON and O'Brien
4 would "handle" vendor complaints.
5

6 w. On or about September 27, 2005, WATSON and FRASER informed
7 CSK's chief executive officer that the debit memos CSK had issued in July 2005 were not
8 significantly at risk.
9

10 x. On or about September 27, 2005, WATSON forwarded by email a one-
11 page spreadsheet to FRASER that detailed approximately \$12 million of debit memos that
12 had been disputed by vendors where approximately \$6.9 million was comprised of "moved
13 amount[s]" and a total of approximately \$9.5 million was listed as being "at risk."
14

15 y. On or about December 15, 2005, FRASER and O'Brien discussed
16 applying a credit memo to pay back Chevron for over-collected LWT allowances to the
17 warranty account.
18

19 Warranty

20 z. In or about 2003, WATSON and FRASER rejected O'Brien's proposal
21 to write off a warranty deficit of approximately \$13 million.
22

23 Boys and Girls Club of America

24 aa. On or about February 28, 2002, WATSON caused a journal entry to be
25 posted as of the last day of the 2001 fiscal year which reversed a \$250,000 liability for
26 amounts collected for the Boys and Girls Club of America and increased CSK's income for
27 fiscal year 2001.
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1 would offset uncollectible funds in the 2001 LWT receivable.

2 hh. On or about September 15, 2003, WATSON and FRASER signed a
3 management representation letter to CSK's independent auditor that falsely stated, among
4 other things, that they were not aware of any fraud in connection with CSK's consolidated
5 balance sheet as of August 3, 2003, and the interim consolidated financial statements for the
6 Form 10-Q for the second quarter ended August 3, 2003.

7
8 ii. On or about November 24, 2003, Opper emailed a memorandum to
9 CSK's independent auditor evidencing collections for the 2002 LWT receivable that failed to
10 disclose that certain collections had been paid back to the vendors.

11
12 jj. On or about December 2, 2003, WATSON and FRASER participated in
13 a telephonic meeting of the audit committee in which they failed to correct the independent
14 auditor's report that the 2003 LWT receivable balance of \$75 million was fully collectible.

15
16 kk. On or about April 14, 2004, WATSON and FRASER signed a
17 management representation to CSK's independent auditor that falsely stated, among other
18 things, that they were not aware of any fraud in connection with CSK's 2003 Form 10-K.

19
20 ll. In or about April 2005, O'Brien sent a memorandum to WATSON,
21 FRASER, and the independent auditor in connection with the First Restatement that falsely
22 concluded that "the issues relative to timing and errors in estimation were not indicative of
23 any fraudulent activities or deliberate wrongdoing by CSK management."

24
25 mm. On or about May 2, 2005, WATSON and FRASER signed a
26 management representation letter to CSK's independent auditor that falsely stated, among
27 other things, they were not aware of any fraud in connection with CSK's 2004 Form 10-K.
28

1 mn. On or about June 8, 2005, WATSON and FRASER participated in an
2 audit committee meeting and failed to disclose that approximately half of the 2004 LWT
3 receivable was uncollectible during discussions about its collectibility.

4 oo. On or about June 10, 2005, WATSON and FRASER signed a
5 management representation letter to CSK's independent auditor that falsely stated, among
6 other things, that they were not aware of any fraud in connection with CSK's First Quarter
7 2005 Form 10-Q.
8

9 pp. On or about August 30, 2005, WATSON and FRASER participated in
10 an audit committee meeting in which there was an overview of CSK's "critical accounting
11 balances" including "LWT Program/COOP (recognition and outstanding receivables)," and
12 WATSON and FRASER failed to inform the committee that CSK had issued a large number
13 of debit memos that double billed vendors for uncollectible LWT allowances.
14
15

16 qq. On or about September 9, 2005, WATSON and FRASER signed a
17 management representation letter to CSK's independent auditor that falsely stated, among
18 other things, that they were not aware of any fraud in connection with CSK's Second Quarter
19 Form 10-Q.
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21 rr. On or about December 8, 2005, FRASER signed a management
22 representation letter to CSK's independent auditor that falsely stated, among other things,
23 that he was not aware of any fraud in connection with CSK's Third Quarter 2005 Form 10-
24 Q.
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26 All in violation of Title 18, United States Code, § 371.
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COUNTS TWO THROUGH SEVEN

Securities Fraud

(15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. §240.10b-5; and 18 U.S.C. § 2)

17. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein as setting forth the scheme.

18. On or about the dates set forth below, each such date constituting a separate count of this Indictment, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

and others, did unlawfully, knowingly, and willfully, by the use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, directly and indirectly use and employ manipulative and deceptive devices and contrivances in violation of 17 C.F.R. § 240.10b-5 in connection with the purchase and sale of CSK securities, by (a) employing devices, schemes, and artifices to defraud holders of CSK securities and other members of the investing public; (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 and deceit upon a person in connection with the purchase and sale of securities, on the dates and in the SEC filings described in each count below:

<u>Count</u>	<u>Date</u>	<u>SEC Filing</u>
2	April 15, 2004	CSK's 2003 Form 10-K
3	September 10, 2004	CSK's Form 10-Q for Second Quarter 2004
4	May 2, 2005	CSK's 2004 Form 10-K
5	June 10, 2005	CSK's Form 10-Q for First Quarter 2005
6	September 9, 2005	CSK's Form 10-Q for Second Quarter 2005
7	December 9, 2005	CSK's Form 10-Q for Third Quarter 2005

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

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COUNTS EIGHT THROUGH THIRTEEN

False Filing With The SEC

**(15 U.S.C. §§ 78m(a) and 78ff, 17 C.F.R. §§ 240.12b-20, 240.13a-1,
and 240.13a-13, and 18 U.S.C. § 2)**

19. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

20. On or about the dates set forth below, each such date constituting a separate count of this Indictment, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

and others, did unlawfully, knowingly, and willfully make and cause to be made statements in reports and documents required to be filed with the SEC under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, which statements were false and misleading with regard to material facts, and failing to provide such further material information as was necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, on the dates and in the SEC filings described in each count below:

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COUNTS FOURTEEN THROUGH TWENTY-ONE

Mail Fraud

(18 U.S.C. §§ 1341, 1346, and 2)

21. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein as setting forth the scheme.

22. On or about the dates specified below as to each count, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON

and others, having unlawfully, knowingly, and willfully devised and intended to devise a scheme and artifice to defraud, and to deprive another of the intangible right of honest services, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did knowingly (a) place in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service, (b) deposit and cause to be deposited any matter and thing whatever to be sent and delivered by any private and commercial interstate carrier, and (c) cause to be delivered by mail and private and commercial interstate carrier, according to the direction thereon, any such matter and thing, on the dates and in the items mailed described in each count below:

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<u>Count</u>	<u>Date</u>	<u>Item</u>
14	July 8, 2004	Debit Memo D2412458LWT for \$286,683.95 to Prestone Anti-Freeze in Danbury, CT
15	July 8, 2004	Debit Memo D2412464LWT for \$183,613.64 to Prestone Car Care in Danbury, CT
16	July 8, 2004	Debit Memo D2412453LWT for \$6,805.89 to Four Seasons Hayden in Corona, CA
17	September 1, 2005	Debit Memo D2426342LWS for \$489,124.18 to BP Lubricants USA, Inc., in Wayne, NJ
18	September 1, 2005	Debit Memo D2426346LWS for \$2,602,651.14 to Chevron USA in Dallas, TX
19	September 1, 2005	Debit Memo D2426399LWS for \$230,975.67 to Master Parts Div/Airtex Products in St. Louis, MO
20	September 1, 2005	Debit Memo D2426373LWS for \$2,082,374.06 to Exide Corporation in Atlanta, GA
21	September 1, 2005	Debit Memo D2426385LWS for \$1,476,921.51 to Honeywell/Allied Aftermarket in Danbury, CT

All in violation of Title 18, United States Code, Sections 1341, 1346, and 2.

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COUNT TWENTY-TWO

False Books and Records

**(15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), and 78ff, and
17 C.F.R. § 240.13b2-1, and 18 U.S.C. § 2)**

23. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

24. From on or about October 1, 2002, to on or about February 28, 2005, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

and others, did unlawfully, knowingly, and willfully, directly and indirectly, falsify and cause to be falsified books, records, and accounts of CSK, an issuer with a class of securities registered pursuant to 15 U.S.C. Section 78l and required to file reports pursuant to 15 U.S.C. Section 78o(d). Specifically, the defendants falsified and caused to be falsified the 2003 LWT account receivable by, among other means, (a) applying allowances recognized and collected for the 2003 LWT program to the 2002 LWT account receivable, (b) applying allowances recognized and collected for the 2004 LWT program to the 2003 LWT account receivable, and (c) applying paybacks for prior LWT program years to the 2003 LWT account receivable.

All in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1, and Title 18 United States Code, Section 2.

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COUNT TWENTY-THREE

False Books and Records

**(15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), and 78ff, and
17 C.F.R. § 240.13b2-1, and 18 U.S.C. § 2)**

25. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

26. From on or about October 1, 2003, to in or about July 2005 in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

and others, did unlawfully, knowingly, and willfully, directly and indirectly, falsify and cause to be falsified books, records, and accounts of CSK, an issuer with a class of securities registered pursuant to 15 U.S.C. Section 78l and required to file reports pursuant to 15 U.S.C. Section 78o(d). Specifically, the defendants falsified and caused to be falsified the 2004 LWT account receivable by, among other means, (a) applying allowances recognized and collected for the 2004 LWT program to the 2003 LWT account receivable and (b) reducing the 2004 LWT account receivable through the issuance of debit memos in or about July 2005 when the defendants knew the debit memos contained amounts that had already been collected and moved to the 2003 LWT account receivable or paid back as uncollectible.

All in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1, and Title 18 United States Code, Section 2.

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COUNT TWENTY-FOUR

False Statements to Auditor

(15 U.S.C. § 78ff, 17 C.F.R. § 240.13b2-2, and 18 U.S.C. § 2)

27. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

28. On or about April 14, 2004, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

did unlawfully, knowingly, and willfully make, and cause to be made, materially false and misleading statements, and omit to state and cause others to omit to state material facts, necessary to make the statements made not misleading, to CSK's independent auditor, in connection with an examination of the financial statements, quarterly review, and the preparation and filing of a document and report required to be filed with the SEC. Specifically, in a management representation letter regarding audited consolidated financial statements as of February 1, 2004, and February 2, 2003, for the 2003 Form 10-K, signed by WATSON, FRASER, and others, WATSON and FRASER falsely stated and caused others to falsely state that (a) there were no material transactions, agreements, and accounts that had not been properly recorded in the accounting records underlying the consolidated financial statements; (b) they had no knowledge of any fraud or suspected fraud by any member of management or any employees who had significant roles in internal control over financial reporting; (c) all receivables recorded in the consolidated financial statements had been

1 appropriately reduced to their estimated net realizable value; and (d) the amount reflected as
2 a receivable as of February 1, 2004, under the 2003 LWT program of \$53.3 million
3 represented the best estimate of the amount owed to CSK.

4 All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of
5 Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.
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COUNT TWENTY-FIVE

False Statements to Auditor

(15 U.S.C. § 78ff, 17 C.F.R. § 240.13b2-2, and 18 U.S.C. § 2)

29. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

30. On or about September 9, 2004, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

did unlawfully, knowingly, and willfully make, and cause to be made, materially false and misleading statements, and omit to state and cause others to omit to state material facts, necessary to make the statements made not misleading, to CSK's independent auditor, in connection with an examination of the financial statements, quarterly review, and the preparation and filing of a document and report required to be filed with the SEC. Specifically, in a management representation letter related to CSK's consolidated balance sheet as of August 1, 2004, and the interim consolidated financial statements for the Form 10-Q for the quarter ended August 1, 2004, signed by WATSON, FRASER, and others, WATSON and FRASER falsely stated and caused others to falsely state that (a) they had no knowledge of any fraud or suspected fraud by any member of management or any employees who had significant roles in internal control over financial reporting; and (b) the amount reflected as a receivable as of August 1, 2004, under the 2003 LWT program of \$31 million represented the best estimate of the amount owed to CSK and was considered to be

collectible in the normal course of business.

All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.

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COUNT TWENTY-SIX

False Statements to Auditor

(15 U.S.C. § 78ff, 17 C.F.R. § 240.13b2-2, and 18 U.S.C. § 2)

31. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

32. On or about May 2, 2005, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

did unlawfully, knowingly, and willfully make, and cause to be made, materially false and misleading statements, and omit to state and cause others to omit to state material facts, necessary to make the statements made not misleading, to CSK's independent auditor, in connection with an examination of the financial statements, quarterly review, and the preparation and filing of a document and report required to be filed with the SEC. Specifically, in a management representation letter regarding audited consolidated financial statements as of January 30, 2005, and February 1, 2004, for the 2004 Form 10-K, signed by WATSON, FRASER, and others, WATSON and FRASER falsely stated and caused others to falsely state that (a) that there were no material transactions, agreements, and accounts that had not been properly recorded in the accounting records underlying the consolidated financial statements; (b) they had no knowledge of any fraud or suspected fraud by any member of management or any employees who had significant roles in internal control over financial reporting; (c) all receivables recorded in the consolidated financial statements had

1 been appropriately reduced to their estimated net realizable value; (d) the amount reflected as
2 a receivable as of January 30, 2005, under the 2004 LWT program of approximately \$40.4
3 million represented the best estimate of the amount owed to CSK; and (e) they had identified
4 all known material adjustments to prior years' accrued LWT receivables and included the
5 adjustments in the proper period in connection with the vendor allowance restatement made
6 in fiscal year 2004.
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8 All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of
9 Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.
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COUNT TWENTY-SEVEN

False Statements to Auditor

(15 U.S.C. § 78ff, 17 C.F.R. § 240.13b2-2, and 18 U.S.C. § 2)

33. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

34. On or about June 10, 2005, in the District of Arizona and elsewhere, the defendants,

MARTIN FRASER
and
DON WATSON,

did unlawfully, knowingly, and willfully make, and cause to be made, materially false and misleading statements, and omit to state and cause others to omit to state material facts, necessary to make the statements made not misleading, to CSK's independent auditor, in connection with an examination of the financial statements, quarterly review, and the preparation and filing of a document and report required to be filed with the SEC. Specifically, in a management representation letter related to CSK's consolidated balance sheet as of May 1, 2005, and the interim consolidated financial statements for the Form 10-Q for the quarter ended May 1, 2005, signed by WATSON, FRASER, and others, WATSON and FRASER falsely stated and caused others to falsely state that (a) they had no knowledge of any fraud or suspected fraud by any member of management or any employees who had significant roles in internal control over financial reporting; (b) all of the representations made in the May 2, 2005, representation letter were accurate; and (c) the amount reflected as a receivable as of May 1, 2005, under the 2004 LWT program of \$36.1 million represented

1 the best estimate of the amount owed to CSK and was considered to be collectible in the
2 normal course of business.

3 All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of
4 Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.
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1 million for the 2004 LWT program represented the best estimate of the amount owed to CSK
2 and was considered to be collectible in the normal course of business.

3 All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of
4 Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.
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COUNT TWENTY-NINE

False Statements to Auditor

(15 U.S.C. § 78ff, 17 C.F.R. § 240.13b2-2, and 18 U.S.C. § 2)

37. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

38. On or about December 8, 2005, in the District of Arizona and elsewhere, the defendant,

MARTIN FRASER

did unlawfully, knowingly, and willfully make, and cause to be made, materially false and misleading statements, and omit to state and cause others to omit to state material facts, necessary to make the statements made not misleading, to CSK's independent auditor, in connection with an examination of the financial statements, quarterly review, and the preparation and filing of a document and report required to be filed with the SEC. Specifically, in a management representation letter related to CSK's consolidated balance sheet as of October 30, 2005, and the interim consolidated financial statements for the Form 10-Q for the quarter ended October 30, 2005, signed by FRASER and others, FRASER falsely stated and caused others to falsely state that (a) he had no knowledge of any fraud or suspected fraud by any member of management or any employees who had significant roles in internal control over financial reporting; (b) all of the representations made in the May 2, 2005, representation letter were accurate; and (c) the amount reflected as a receivable as of October 30, 2005, under the 2004 LWT program of \$0.4 million represented the best estimate of the amount owed to CSK and was considered to be collectible in the normal

1 course of business.

2 All in violation of Title 15, United States Code, Section 78ff, and Title 17, Code of
3 Federal Regulations, Section 240.13b2-2, and Title 18, United States Code, Section 2.

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COUNT THIRTY

False Certifications of Financial Reports

(18 U.S.C. §§ 1350(c) and 2)

39. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

40. On or about April 14, 2004, in the District of Arizona and elsewhere, the defendant,

DON WATSON,

the CFO of CSK, did unlawfully, knowingly, and willfully certify a statement required by Title 18, United States Code, Section 1350, to be filed with the SEC, that is,

a statement certifying that the periodic report accompanying the statement, namely, CSK's Form 10-K, (1) fully complied with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (2) that the information contained therein fairly presented, in all material respects, the financial condition and results of operations of the company,

while knowing that the periodic report so filed did not comport with all of the requirements of Title 18, United States Code, Section 1350, in that as defendant WATSON then and there well knew and believed, the information therein did not fairly present, in all material respects, the financial condition and results of operations of CSK because said information materially misstated CSK's receivables and pre-tax income for each of the periods set forth in the report.

All in violation of Title 18, United States Code, Sections 1350(c)(2) and 2.

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COUNT THIRTY-ONE

False Certifications of Financial Reports

(18 U.S.C. §§ 1350(c) and 2)

41. Paragraphs 1 through 11 and 14 through 16 are realleged and incorporated by reference as if set forth fully herein.

42. On or about May 2, 2005, in the District of Arizona and elsewhere, the defendant,

DON WATSON,

the CFO of CSK, did unlawfully, knowingly, and willfully certify a statement required by Title 18, United States Code, Section 1350, to be filed with the SEC, that is,

a statement certifying that the periodic report accompanying the statement, namely, CSK's Form 10-K, (1) fully complied with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (2) that the information contained therein fairly presented, in all material respects, the financial condition and results of operations of the company,

while knowing that the periodic report so filed did not comport with all of the requirements of Title 18, United States Code, Section 1350, in that as defendant WATSON then and there well knew and believed, the information therein did not fairly present, in all material respects, the financial condition and results of operations of CSK because said information materially misstated CSK's receivables and pre-tax income for each of the periods set forth in the report.

