

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
(TOPEKA DOCKET)

FILED  
U.S. DISTRICT COURT  
DISTRICT OF KANSAS  
2006 MAY 17 P 3:35

RALPH L. DELOACH  
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AT TOPEKA, KS.

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

F. JEFFREY MILLER, )  
TODD EARNSHAW, )  
BRIAN ROUSE, )  
PAUL E. NICOLACE, )  
ANGELA PARENZA, )  
ELIZABETH L. HESSEL, )  
JAMES MOSER, )  
STEVE MIDDLETON, and )  
LANNY ROSS )

Defendants. )

Case No. 06-40068-01/02/03/04/05/06/07/  
08/09-JAR

Ct. 1: 18 U.S.C. §371  
Cts. 2-54: 18 U.S.C. §1344  
Cts. 55-59: 18 U.S.C. §1957  
Ct. 60: Forfeiture

**INDICTMENT**

THE GRAND JURY CHARGES:

**Introduction**

At all times material to this indictment:

1) F. JEFFREY MILLER ("MILLER") owned and operated Miller Enterprises and Star Land Development through which MILLER would build and develop homes in the greater Kansas City area. MILLER was the largest builder in the

area in 1999 and 2000.

2) MILLER targeted selling his homes to homebuyers with credit problems who had little or no money for a down payment. MILLER started, financed, controlled and was an officer in Associated Capital and Associated Finance, formed in June of 1998, and located in Kansas. Miller would cause buyers to be directed to Associated Capital, where loan applications would be prepared for submission to federally insured financial institutions throughout the United States, the proceeds from which were used to acquire homes built by MILLER. Associated Finance was established to service second mortgage payments to MILLER, on homes purchased from MILLER.

3) ANGELA PARENZA ("PARENZA"), and BETH HESSEL ("HESSEL"), were loan officers who worked for Associated Capital. PARENZA also acted as office manager for MILLER. PARENZA would pay all of MILLER'S personal expenses through Miller Enterprises and acted under the direction and control of MILLER. HESSEL and PARENZA would do anything required to complete a loan closing, including but not limited to forging potential buyers' signatures on loan documents and providing home purchasers with down payments and closing costs, at the direction of MILLER.

4) TODD EARNSHAW ("EARNSHAW") and BRIAN ROUSE ("ROUSE"),

were loan officers who worked for Maplewood Mortgage and Prosource Mortgage. EARNSHAW was also a real estate agent who sold many of MILLER's houses. ROUSE was also a sales representative for BNC Mortgage.

5) Commencing in 1999, MILLER became the subject of lawsuits, actions by state enforcement agencies, legislative action and adverse publicity, including:

A. Investigation by the Attorney General's Office for the State of Kansas.

B. Investigation and injunctive relief by the Kansas State Bank Commissioner.

C. Investigation by the Attorney General's Office for the State of Missouri.

D. Action by the Kansas legislature to amend the Kansas Mortgage Business Act, which, beginning November 1, 2001, required any corporation, or any person, who regularly obtained second mortgages to be licensed with the State of Kansas.

As a result of these actions MILLER had to adapt and reconfigure the conspiracy set forth hereinafter. MILLER discontinued doing business through Associated Capital and Associated Finance, and started selling homes through middlemen, including STEVE MIDDLETON ("MIDDLETON") and EARNSHAW.

6) PAUL NICOLACE (“NICOLACE”) and LANNY ROSS (“ROSS”) were real estate appraisers doing business in the greater Kansas City area, who provided inflated appraisals for MILLER, MIDDLETON and others.

7) JAMES MOSER (“MOSER”) and Joe Frey were real estate investors. Beginning in approximately 2002, due to the adverse reputation and publicity MILLER generated in Missouri and Kansas because of his illegal marketing methods and the intentionally poor quality of his construction, there came a point in time when MILLER could no longer sell his houses in any volume directly to individuals. MILLER reconfigured the conspiracy described hereinafter, to market his houses to investors. MILLER agreed to sell houses to investors at a discount if they purchased in volume. This discounting was not disclosed to the lenders. MILLER sold homes in this manner directly to investors and through middlemen such as MIDDLETON.

**COUNT 1**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371**  
**THE CONSPIRACY:**

8) Beginning in 1997, the precise date being unknown to the grand jury, and continuing through the return of the indictment, the defendants herein, **MILLER, EARNSHAW, ROUSE, NICOLACE, PARENZA, HESSEL, MOSER, MIDDLETON & ROSS**, combined, conspired, confederated and agreed to commit offenses against the United States of America, in the District of Kansas and elsewhere,

by:

A) knowingly, wilfully and unlawfully devising and executing, and attempting to execute, a scheme and artifice to defraud financial institutions and obtain any of the moneys, funds, credits, assets, securities and other property owned by and under the custody and control of financial institutions, by means of material false and fraudulent pretenses, representations, promises and omissions of fact, in violation of Title 18 United States Code, Sections 2, and 1344; and,

B) knowingly, wilfully and unlawfully engaging in monetary transactions in property derived from specified unlawful activity, in violation of Title 18 United States Code, Sections 2 & 1957.

### **Object of Conspiracy and Scheme**

9) The object of said conspiracy and scheme to defraud was to enrich the conspirators by manipulating home buyers, manipulating appraisals and submitting materially false and fraudulent loan applications to obtain loan proceeds from federally insured financial institutions.

### **Overt Acts.**

10) It was part of said conspiracy and scheme and artifice to defraud that the defendants and conspirators:

A) Advertised for home buyers with poor credit and financial problems. MILLER and others placed ads in newspapers offering to put such home buyers into MILLER-built residences for little or no down payment.

B) Established a "One Stop Shop" for home buying. By establishing Associated Capital and Associated Finance to go along with his building company, Miller Enterprises, MILLER and his co-defendants and co-

conspirators basically offered home buyers a "One Stop Shop." Home buyers only had to go to Miller Enterprises and they could pick out a house and obtain financing. By doing this MILLER controlled the flow of information that was submitted to the federally insured financial institution.

C) Turned the "One Stop Shop" into a fraudulent real estate machine. MILLER obtained intentionally inflated appraisals by refusing to pay appraisers if his price was not met, selling homes in subdivisions to employees at inflated prices and agreeing to forgive second mortgages on these home, by providing MILLER-built homes as the primary comparables. Through these deceptive and manipulative practices, MILLER and others caused lenders to lend up to, and in excess of, 100% of the property values.

D) Falsified Loan Documents. MILLER, and others, created and caused to be created, materially false loan applications and accompanying documents, such as tax returns, employment verifications, rental agreements, rental verifications and payment histories, to submit to federally insured financial institutions to qualify home buyers for mortgages that otherwise would not have been justified by their financial condition.

E) Provided home purchasers with down payments and closing costs, without the knowledge of the financial institutions providing the loan proceeds.

F) Increased the sales price of the house at or prior to closing, and caused a second mortgage to be prepared on the difference at an illegal interest rate. These second mortgages would be serviced through MILLER's company, Associated Finance. MILLER and EARNSHAW created a form called the Principal Reduction Form to reduce the second mortgage, which was provided to the home buyer after closing, without knowledge of the first lender, which permitted the home buyer to reduce the second mortgage amount, if the reduced amount was paid off in a specified time.

G) Manipulated home buyers into moving into MILLER-built houses in

advance of closing. This created a situation in which home buyers, who were confronted with an increased sales price at closing, contrary to what the buyer had agreed upon, were coerced into closing on home sales, or face eviction and homelessness.

H) Reconfigured the conspiracy to sell homes in volume to investors, who simply planned to resell or refinance the properties. MILLER and others continued to submit material misrepresentations to federally insured institutions including income of investors and false lease/purchase agreements. To induce investors to purchase multiple residences, MILLER agreed to discount the actual price of homes sold to investors. This discount was not disclosed to the federally insured institutions. To induce future purchases MILLER paid kickbacks to investors out of loan proceeds, concealing such payments as referral fees and interior design fees.

I) Obtained the disbursement of \$25,042,670.39 in loan proceeds from federally insured institutions to finance the conspiracy and scheme to defraud, pay off construction loans and enrich the conspirators.

11) In furtherance and execution of the foregoing conspiracy and scheme and artifice to defraud, the defendants committed additional overt acts in the State of Kansas, and elsewhere consisting of the following substantive offenses set forth as Counts 2 through 59, incorporated herein by reference.

**COUNTS 2 THROUGH 54**  
**BANK FRAUD**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2 &**  
**1344**

12) Paragraphs 1 through 11 are incorporated herein as though fully set forth.

13) On or about the dates set forth below, in the District of Kansas and elsewhere, the defendants executed, and attempted to execute, a scheme and artifice to defraud the financial institutions identified below, as defined in 18 U.S.C. § 20, and to obtain the moneys, funds, credits, assets, securities, and other property, owned by or under the custody or control of these institutions, by means of false and fraudulent pretenses, representations, promises and omissions of material facts, thereby obtaining, and attempting to obtain, loan proceeds from the following financial institutions:

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 2 5/22/98	Pacific Thrift & Loan, Walnut Creek, CA - Deirick Dorrell	F. Jeffrey Miller	\$118,852
Ct. 3 11/02/98	TCB Houston in Houston, TX on behalf of Long Beach Mortgage - Michele Johnson (White)	F. Jeffrey Miller Beth Hessel	\$137,951.14
Ct. 4 1/19/99	Bank of New York in New York, NY on behalf of WMC Mortgage - Scott & Mary Lang	F. Jeffrey Miller Beth Hessel	\$93,415 (attempted)

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 5 3/12/99	U.S. Bank in Minneapolis, MN on behalf of New Century Mortgage - Gary Wellner	F. Jeffrey Miller Angela Parenza	\$160,805.80
Ct. 6 4/1/99	U.S. Bank in Minneapolis, MN on behalf of New Century Mortgage - Lana C. Daniels-Crow	F. Jeffrey Miller Beth Hessel	\$129,822.60
Ct. 7 4/1/99	Bank of Yorba Linda in Tustin, CA - Kim Vohl	F. Jeffrey Miller Todd Earnshaw	\$205,601
Ct. 8 4/30/99	Fremont Investment & Loan in Brea, CA - Benjamin Kinney	F. Jeffrey Miller Beth Hessel	\$116,200
Ct. 9 6/15/99	Centex Home Equity Corporation of Dallas - Jennifer & Eugene Kelly	F. Jeffrey Miller Beth Hessel	\$136,500 (attempted)
Ct. 10 7/1/99	Old Kent Mortgage in Salt Lake City, UT - Mike Brown	F. Jeffrey Miller Beth Hessel	\$161,707
Ct. 11 9/1/99	Bank of New York in New York, NY on behalf of WMC Mortgage - Martin & Kim Pierce	F. Jeffrey Miller Beth Hessel	\$126,980

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 12 11/5/99	Bank One of Chicago, IL, on behalf of First Consolidated Mortgage in Dallas, TX - Thad Aber	F. Jeffrey Miller Beth Hessel	\$95,950
Ct. 13 1/31/00	Mellon Bank in Pittsburgh, PA on behalf of Option One Mortgage - Scott Peeples	F. Jeffrey Miller Todd Earnshaw	\$142,141.15
Ct. 14 3/31/00	First Union Bank of Delaware on behalf of Equity One - Deirick Dorrell	F. Jeffrey Miller Todd Earnshaw Beth Hessel	\$130,700
Ct. 15 5/1/00	Bank One in Chicago, IL on behalf of BNC Mortgage - Regina Rockers	F. Jeffrey Miller Todd Earnshaw	\$137,597.81
Ct. 16 5/11/00	Bank One in Chicago, IL on behalf of BNC Mortgage - Andre L. Massey	F. Jeffrey Miller Todd Earnshaw	\$185,851.28
Ct. 17 5/25/00	Bank One in Chicago, IL on behalf of BNC Mortgage - Elizabeth K. Saunders	F. Jeffrey Miller Todd Earnshaw	\$178,143.57
Ct. 18 5/25/00	Bank One in Chicago, IL on behalf of BNC Mortgage - Tim & Marilyn Arnold	F. Jeffrey Miller Todd Earnshaw	\$118,366.95

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 19 5/31/00	Bank One in Chicago, IL on behalf of BNC Mortgage - David and Vanessa Prewitt	F. Jeffrey Miller Todd Earnshaw	\$120,605.76
Ct. 20 6/19/00	Bank of New York in New York, NY on behalf of BNC Mortgage - Gary & Monica Dennington	F. Jeffrey Miller Todd Earnshaw Paul Nicolace	\$196,900.40
Ct. 21 6/28/00	Bank One in Chicago, IL on behalf of BNC Mortgage - Joy Rountree	F. Jeffrey Miller Todd Earnshaw	\$123,069.90
Ct. 22 8/16/00	Bank of New York in New York, NY on behalf of BNC Mortgage - Felix Charles	F. Jeffrey Miller Todd Earnshaw Paul Nicolace	\$159,055.04
Ct. 23 9/5/00	Bank of New York in New York, NY on behalf of BNC Mortgage - Elliott & Adrian Bruce	F. Jeffrey Miller Todd Earnshaw Paul Nicolace	\$126,340
Ct. 24 10/2/00	Bank of New York in New York, NY on behalf o BNC Mortgage - Rick Hayes	F. Jeffrey Miller Todd Earnshaw Paul Nicolace Brian Rouse	\$198,109.16
Ct. 25 4/30/01	Bank of America in Chicago, IL on behalf of Equicredit - Eric McMillian	F. Jeffrey Miller Todd Earnshaw Brian Rouse	\$232,466.12

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 26 5/1/01	US Bank in Minneapolis, MN on behalf First Franklin Financial Corporation- Linda Schaefer	F. Jeffrey Miller Todd Earnshaw Paul Nicolace Brian Rouse	\$205,927.32
Ct. 27 5/2/01	Bank of New York in New York, NY on behalf of Countrywide – Paul Nicolace	F. Jeffrey Miller Paul Nicolace	\$285,940.10 \$9,230 (2 Wires)
Ct. 28 8/27/01	US Bank in Minneapolis, MN on behalf First Franklin Financial Corporation- Julia Barton	F. Jeffrey Miller Paul Nicolace Brian Rouse	\$256,824.90
Ct. 29 6/28/02	Bank of New York, New York, NY on behalf of Countrywide – Joseph Frey	F. Jeffrey Miller James Moser	\$287,852.55
Ct. 30 7/31/02	Citibank in Buffalo, NY on behalf of National City Mortgage – Joseph Frey	F. Jeffrey Miller James Moser	\$283,762.12 (Check)
Ct. 31 8/21/02	Citibank in Buffalo, NY on behalf of National City Mortgage – Joseph Frey	F. Jeffrey Miller James Moser Steve Middleton	\$291,434.66
Ct. 32 8/30/02	Bank of New York, NY on behalf of Countrywide – Joseph Frey	F. Jeffrey Miller James Moser	\$291,281.06

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 33 10/2/02	Bank of New York, NYC, on behalf of Greenpoint Mortgage in Denver, CO – Joseph Frey	F. Jeffrey Miller James Moser Brian Rouse Steve Middleton	\$292,785.65
Ct. 34 10/18/02	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph Frey	F. Jeffrey Miller James Moser Brian Rouse	\$290,633.85
Ct. 35 10/18/02	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph & Nancy Frey	F. Jeffrey Miller James Moser Brian Rouse Steve Middleton	\$301,921.07
Ct. 36 10/18/02	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph & Nancy Frey	F. Jeffrey Miller James Moser Brian Rouse Steve Middleton	\$270,730.02
Ct. 37 11/26/02	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph Frey	F. Jeffrey Miller James Moser Brian Rouse	\$239,105.79
Ct. 38 11/26/02	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph Frey	F. Jeffrey Miller James Moser Brian Rouse	\$230,418.24
Ct. 39 2/7/03	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph Frey	F. Jeffrey Miller James Moser Steve Middleton	\$244,323.43

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct. 40 2/20/03	Bank One in Chicago, IL on behalf of Homecomings Financial Network - Joseph & Nancy Frey	F. Jeffrey Miller James Moser	\$307,616.61
Ct. 41 2/20/03	Bank of New York, NYC, Greenpoint Mortgage in Denver, CO – Joseph & Nancy Frey	F. Jeffrey Miller James Moser	\$305,764.24
Ct. 42 3/5/03	US Bank in Minneapolis, MN on behalf of First Franklin Financial Corporation – Joseph Frey	F. Jeffrey Miller Steve Middleton James Moser Brian Rouse	\$240,488.76
Ct. 43 3/11/03	Bank One in Chicago, IL on behalf of Homecomings Financial Network – Joseph & Nancy Frey	F. Jeffrey Miller James Moser	\$322,156.40
Ct. 44 4/24/03	Union Federal Bank in Indianapolis, IN – Joseph Frey	F. Jeffrey Miller James Moser	\$207,653.11
Ct. 45 4/24/03	Union Federal Bank in Indianapolis, IN – Joseph Frey	F. Jeffrey Miller James Moser	\$207,659.11
Ct. 46 8/8/03	First Collateral Bank in Concord, CA, on behalf of Entrust Mortgage – Joseph & Nancy Frey	F. Jeffrey Miller James Moser	\$252,630

<b>Count &amp; On or about Date</b>	<b>Financial Institution &amp; Borrower</b>	<b>Defendants Involved</b>	<b>Loan Disbursement</b>
Ct.47 8/22/03	DBTCO Americas in New York, NY on behalf of Argent Mortgage – Joseph Frey	F. Jeffrey Miller James Moser Steve Middleton	\$323,747.98
Ct. 48 10/8/03	Bank of New York in New York, NY on behalf of Countrywide – Kara Franks	F. Jeffrey Miller James Moser	\$318,468.48
Ct. 49 3/5/04	Bear Stearns Bank in NYC on behalf of Aegis Financial in Houston, TX – Tracie Phillips	F. Jeffrey Miller James Moser	\$280,592.41 \$69,914.57
Ct. 50 3/31/04	Crevecor in St. Louis, MO – Shellie Nelson	F. Jeffrey Miller James Moser Steve Middleton Lanny Ross	\$273,498
Ct. 51 4/5/04	Comerica Bank in Long Beach, California, on behalf of People's Choice Home Loans – Shellie Nelson	F. Jeffrey Miller Lanny Ross James Moser	\$244,000.68 \$44,798.02
Ct. 52 7/12/04	Citibank in Buffalo, NY on behalf of National City Mortgage – Emma Holmes	F. Jeffrey Miller James Moser Lanny Ross	\$308,722.07
Ct. 53 9/9/04	Comerica Bank in Long Beach, California, on behalf of People's Choice Home Loans - Emma Holmes	F. Jeffrey Miller James Moser Lanny Ross	\$290,078.69 \$71,418.36

Count & On or about Date	Financial Institution & Borrower	Defendants Involved	Loan Disbursement
Ct. 54 9/24/04	Bank One in Chicago, IL, on behalf of BNC Mortgage - Emma Holmes	F. Jeffrey Miller James Moser Lanny Ross	\$355,782.52

**COUNTS 55 THROUGH 59**  
**ENGAGING IN MONETARY TRANSACTIONS**  
**IN PROPERTY DERIVED FROM SPECIFIED UNLAWFUL ACTIVITY**  
**IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2 &**  
**1957**

14) Paragraphs 1 through 13 are incorporated herein by reference.

15) On or about the dates set forth below, in the District of Kansas and elsewhere, the defendants knowingly and wilfully engaged and attempted to engage in monetary transactions affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from the specified unlawful activity of bank fraud, in violation of Title 18, United States Code, Section 1344, as follows:

<b>Count</b>	<b>On or about Date</b>	<b>Defendants</b>	<b>Transaction</b>
55	2/7/03	MILLER MOSER MIDDLETON	Proceeds from Count 39 used to fund Check #26359 to Commercial State Bank for \$176,140.15 to pay off MIDDLETON'S construction loan #51209.
56	2/20/03	MILLER MOSER	Proceeds from Count 40 used to fund Check #27509 for \$217,287.52 to pay off MILLER's construction loan at Hillcrest Bank
57	2/25/03	MILLER MOSER	Proceeds from Count 40 ostensibly used to pay MOSER \$90,700 for referral and consultation on decoration and interior design. Deposited into MOSER's account at Bank of America.
58	4/6/04	MILLER MOSER ROSS	Proceeds from Count 54 used to fund check#3330 for \$181,571.44 to pay of MILLER's construction loan at Commercial State Bank
59	4/6/04	MILLER MOSER ROSS	Proceeds of \$64,063, from Count 54 deposited into account of MOSER ostensibly for interior design work

**Count 60**  
**FORFEITURE**

16) The allegations of the foregoing counts of this indictment, are realleged, and by this reference fully incorporated herein, for the purpose of alleging forfeitures to the United States of America, pursuant to the provisions of

Title 18 United States Code, Section 982(a)(2).

As a result of the conspiracy, and scheme alleged in the foregoing counts, involving the substantive offenses of bank fraud in violation of Title 18 United States Code, Section 1344, and money-laundering, in violation of Title 18 United States Code, Section 1957, the defendants **MILLER, EARNSHAW, ROUSE, NICOLACE, PARENZA, HESSEL, MOSER, MIDDLETON & ROSS**, shall forfeit to the United States all property, real and personal, involved in and derived from the aforesaid offenses and all property traceable to such property, or proceeds, including, but not limited to:

A) the sum of \$25,042,670.39.

B) A residence at Foxhead Shores, Lots 25-33, 18665 Metcalf, Stilwell, Kansas 66223.

C) A 1995 Piper Saratoga II HP airplane, SN 3246015, N453KC.

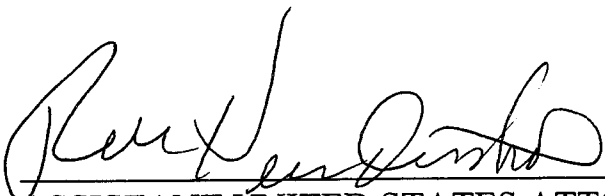
D) In the event any of the foregoing property: 1) cannot be located upon the exercise of due diligence; 2) is transferred, sold to, or deposited with, a third party; 3) is placed beyond the jurisdiction of the Court; 4) is substantially diminished in value; or, 5) is commingled with other property which cannot be divided without difficulty, as a result of any act or omission of any defendant, the Court shall order the forfeiture of any other property of the defendants, up to the value of the

property described in paragraph 13A, B & C above.

A TRUE BILL.

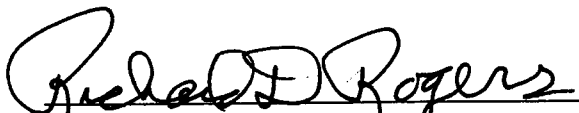
5-17-06  
DATE

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FOREMAN OF THE GRAND JURY

  
\_\_\_\_\_  
ASSISTANT UNITED STATES ATTORNEY  
District of Kansas

[It is requested that trial be held in Topeka, Kansas]

The Court acknowledges the receipt of this indictment in open court.

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE