

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

DANIEL F. FROMAN
[DOB: 03/10/1945]

and

PAULINE K. FROMAN
[DOB: 09/11/1945],

Defendants.

No. _____

COUNT ONE

18 U.S.C. § 371

(Conspiracy)

NMT 5 years Imprisonment

NMT \$250,000 fine

NMT 3 Years Supervised Release

Class D Felony

COUNT TWO

18 U.S.C. §§ 1341 and 2

(Mail Fraud)

NMT 20 Years Imprisonment

NMT \$250,000 fine

NMT 3 Years Supervised Release

Class C Felony

COUNT THREE

18 U.S.C. §§ 1343 and 2

(Wire Fraud)

NMT 20 Years Imprisonment

NMT \$250,000 fine

NMT 3 Years Supervised Release

Class C Felony

COUNT FOUR

18 U.S.C. § 1344

(Bank Fraud)

NMT 30 Years Imprisonment

NMT \$1,000,000 Fine

NMT 5 Years Supervised Release

Class B Felony

) **COUNT FIVE**
) **18 U.S.C. §§ 2314 and 2**
) (Interstate Transportation of Stolen Property)
) NMT 10 Years
) NMT \$250,000 fine
) NMT 3 Years Supervised Release
) Class C Felony
)
) Allegation of Criminal Forfeiture
) **18 U.S.C. §§ 982(a)(1) and (a)(2)(A)**
)
) \$100 Mandatory Special
) Assessment for each count
) Order of Restitution

INDICTMENT SUMMARY	
DEFENDANT	COUNTS
Daniel Froman	1-5
Pauline Froman	1, 2, 4

INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE
(Conspiracy)

At all times material and relevant to this Indictment:

Introduction and Background

1. Defendant Daniel Froman and his wife, Pauline Froman owned and operated a sole proprietorship known as Gallatin Grain Company (Gallatin Grain). Gallatin Grain was located at 107 State Highway 6, Gallatin, Missouri 64640.

2. Daniel Froman and Pauline Froman were residents of Daviess County, Missouri. Gallatin Grain was also located in Daviess County, Missouri.

3. During all times relevant, between 2007-2009, Gallatin Grain stored and bought grain from farmers in Northwest Missouri.

4. Grain companies such as Gallatin Grain are and were regulated closely by the State of Missouri, through the Missouri Department of Agriculture, Grain Regulatory Services.

5. Gallatin Grain was licensed to conduct business under Missouri Public Grain Warehouse license number P-UR-607 and Missouri Grain Dealer number 1034, issued by the Missouri Department of Agriculture, Grain Regulatory Services.

6. Grain brought by farmers or others to Gallatin Grain was stored until such time as the farmer who maintained title to the grain either picked up the grain or sold the grain to the grain company. Alternatively, a farmer could sell the grain for a cash or contracted price when the grain was initially delivered to the grain company.

7. When grain is stored, the grain company charges a storage fee to the farmer. A grain company does not have ownership interest in the stored grain until title is transferred. When the grain is sold to the grain company at delivery, title transfers from the farmer to the grain company. The grain company is required to make payment to the farmer upon demand or as required by the terms of the purchase contract.

8. At all times, Daniel and Pauline Froman were required to keep sufficient grain inventory at Gallatin Grain to cover all stored grain, and sufficient grain proceeds/financial resources to cover all grain payables.

The Conspiracy and Its Object

9. Beginning on or about January 23, 2008, the exact date being unknown to the grand jury, and continuing to on or about February 12, 2009, at Gallatin, Missouri, in the Western District of Missouri, and elsewhere, Daniel and Pauline Froman, and others known and unknown to the grand jury, combined, confederated and agreed with each other and others known and unknown to the grand jury to obtain money and grain from farmers located in Northwest Missouri and elsewhere and to retain the money and grain obtained by means of material false and fraudulent pretenses, representations and promises, and by the concealment of material facts, and in the execution of said scheme caused to be or placed in the United States mail a false and fraudulent 2007 financial statement to be delivered to the Missouri Department of Agriculture, Grain Regulatory Services, in violation of Title 18, United States Code, Sections 1341 and 2.

Purpose of the Conspiracy

10. The purpose of the conspiracy was to obtain money and other benefits by means of material false and fraudulent representations in falsifying defendants' 2007 financial statement submitted to the State of Missouri Department of Agriculture, Grain Regulatory Services and BTC Bank (BTC), and sending said financial statement through the mail to the State of Missouri Department of Agriculture, Grain Regulatory Services, and transporting stolen grain in interstate commerce from Missouri to Nebraska, and wiring payment for the stolen grain from Kansas to Missouri, all for the personal financial and other benefits of defendants.

Fraudulent Scheme

11. It was part of the scheme that defendants:
 - a. Prepared and caused to be prepared a false and fraudulent 2007 financial statement for submission to the State of Missouri Department of Agriculture, State Regulatory Services and BTC Bank;
 - b. Provided false accounts receivable information from DeBruce Grain Company for the 2007 financial statements to accountant Robert Sanger, for submission to the State of Missouri and BTC Bank;
 - c. Provided false accounts payable information from Gallatin area grain producers Walter Burnett, Paul Burnett and Vernon Hanes for the 2007 financial statements to accountant Robert Sanger, for submission to the State of Missouri and BTC Bank;
 - d. Provided false scale tickets to the Missouri Department of Agriculture Departmental auditors;
 - e. Converted, sold or transferred grain belonging to Northwest Missouri farmers without making payment for said grain;
 - f. Commingled and embezzled grain and monies of Gallatin Grain client farmers resulting in an estimated final loss of \$3,113,023.95 to at least 110 victim farmers; and
 - g. Defendant Daniel Froman transported stolen and converted corn and soybeans in interstate commerce and received \$100,000 payment for said corn and soybeans through wire transfer.

Manner and Means

12. It was part of the conspiracy that beginning on or about May 2, 2008, Daniel and Pauline Froman submitted a false and fraudulent financial statement purported to be accurate as of the close of business December 31, 2007, to the Missouri Department of Agriculture, Grain Regulatory Services, via the United States mail. The financial statement was prepared by Certified Public Accountant Robert Sanger, P.C. (Sanger). All documents used by Sanger to prepare the Fromans' financial statements were provided by Daniel and Pauline Froman. The completed financial statements were picked up at Sanger's office by Daniel and Pauline Froman.

13. It was further part of the conspiracy that on or about May 2, 2008, Daniel and Pauline Froman submitted the same 2007 false and fraudulent financial statement purported to be accurate as of the close of business December 31, 2007, to BTC Bank, to induce the bank to increase their line of credit and loan them additional money.

14. It was further part of the conspiracy that part of the 2007 financial statements included accounts receivable from DeBruce Grain Company. Daniel and Pauline Froman overstated the DeBruce Grain Company accounts receivables on the December 31, 2007, financial statement by at least \$310,776.

15. It was further part of the conspiracy that the 2007 financial statements also included accounts payable to grain producers. Daniel and Pauline Froman understated the grain accounts payable to Gallatin area grain producers Walter Burnett, Paul Burnett and Vernon Hanes by at least an additional \$352,336.

16. It was further part of the conspiracy that the financial statements submitted by Daniel and Pauline Froman to the Missouri Department of Agriculture falsely reported a net worth of \$662,176 and working capital of \$535,677.

17. It was further part of the conspiracy that the financial statement for the close of business on December 31, 2007, overstated the financial net worth and working capital of Daniel and Pauline Froman by \$663,112. In truth, Daniel and Pauline Froman had a negative net worth of \$936 at a close of business on December 31, 2007.

18. It was further part of the conspiracy that with a negative net worth of \$936, the Fromans would have been ineligible to maintain their grain dealer or warehouse licenses. The minimum required net worth to maintain their grain warehouse license by the State of Missouri was \$104,700 and the minimum required net worth to maintain their class I grain dealer license was \$257,159.

19. On or about February 9, 2009, Chris Klenklen (Klenklen), Administrator of Department of Agriculture Grain Regulatory Services Program, received a phone call from the Froman's attorney reporting the Fromans had disposed of all grain stored at Gallatin Grain. Klenklen and Department Auditor Richard Schlueter (Schlueter) went to Gallatin Grain and examined all grain storage space, including the bins. They found the facility empty and the commodities removed. Daniel Froman confirmed to Schlueter that all grain had been removed from the facility.

20. On or about February 9, 2009, representatives from the Missouri Department of Agriculture met with Daniel Froman, and his attorney. Auditors obtained Gallatin Grain records, including unsettled ticket reports, grain settlements since the last audit, scale tickets since the last

audit, and files of the majority of storage obligations. Daniel Froman admitted all farmer stored grain had been sold and converted to cash in his attempt to settle demands from his creditors. Daniel Froman stated he owed approximately \$2,000,000 to at least 97 farmers. Froman confirmed his grain inventory was gone and said he knew he shouldn't have handled the grain like that.

21. It was further part of the conspiracy that Daniel Froman kept stated accounts "off the book." These withheld accounts involved Matt Nalle Farms, Walter Burnett and Randy and Brandon Eads, and others who were owed approximately \$1,000,000.

22. It was further part of the conspiracy that Daniel Froman maintained Gallatin Grain bank accounts which were overdrawn because of approximately \$50,000 in outstanding checks.

23. It was further part of the conspiracy that a scheme existed between Daniel and Pauline Froman involving the warehouseman, under the supervision of Pauline Froman, who used a three part ticket where the top copy was pulled off and issued to the producer showing the pertinent information of the delivery. The unused copies of the tickets were then used to record outbound activity. This system concealed the delivery of the grain and the grain was not disclosed as an obligation. Pauline Froman was responsible for maintaining the numerical file of scale tickets and for posting the outbound portion of the altered tickets to the daily position record.

24. It was further part of the conspiracy that Daniel and Pauline Froman manipulated scale tickets so that when the auditors conducted audits, Gallatin Grain books would match the amount of grain stored at the time of the audits. On the biggest accounts, Daniel Froman did not

report the grain Gallatin Grain brought in as an obligation; rather, he sold the grain and kept the sale off the books.

25. It was further part of the conspiracy that after the scheme was reported to the Missouri Department of Agriculture, Grain Regulatory Services, in February, 2009, Daniel Froman caused 1200-1300 bushels of soybeans and corn be delivered from Gallatin, Missouri to Falls City, Nebraska in interstate commerce for the purpose of selling the soybeans and corn to B.W., knowing that the commodities had been stolen, converted or taken by fraud.

Overt Acts

26. In furtherance of and to effect the objectives of the conspiracy, and to accomplish its purposes and objectives, the defendants committed and caused to be committed the following overt acts, among others, in Gallatin, Missouri, in the Western District of Missouri and elsewhere:

a. On or about April 8, 2008, at an audit conducted at Gallatin Grain by the Missouri Department of Agriculture, Grain Regulatory Services, Pauline Froman falsely represented to the Department of Agriculture that scale tickets were properly settled and all obligations had been disclosed to the departmental auditors.

b. On about September 30, 2008, at an audit conducted at Gallatin Grain by the Missouri Department of Agriculture, Grain Regulatory Services, Daniel Froman falsely certified all obligations had been disclosed to the departmental auditors.

c. During both the April and September, 2008 audits, Pauline Froman provided a false document which was generated from the warehouseman's computer system titled "Unsettled Ticket Report."

d. Between on or about January 23, 2008, and February 12, 2009, approximately 30,503.20 bushels of corn and 10,612.67 bushels of soybeans, owned by Ron Ward Farm, Inc. (Ward Farm), which were contracted for sale to Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Ward Farm's permission, and the proceeds derived therefrom were wrongfully withheld from Ward Farm by defendants.

e. Between on or about January 23, 2008, and February 12, 2009, approximately 5191.19 bushels of soybeans, owned by Jeff Ward (Ward), which were contracted for sale to Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Ward's permission, and the proceeds derived therefrom were wrongfully withheld from Ward by defendants.

f. Between on or about February 25, 2008, and February 12, 2009, approximately 23,405 bushels of corn and 3425.67 bushels of soybeans, owned by Walter Burnett, which were contracted for sale to Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Burnett's permission, and the proceeds derived therefrom were wrongfully withheld from Burnett by defendants.

g. Between on or about September 4, 2008, and February 12, 2009, approximately 4547.83 bushels of soybeans, owned by Gary Baxter of Baxter Feedlot (Baxter), which were contracted for sale to Gallatin Grain were sold, transferred or otherwise disposed of by the Daniel and Pauline Froman without Baxter's permission, and the proceeds derived therefrom were wrongfully withheld from Baxter by defendants.

h. Between on or about October 11, 2008, and October 20, 2008, approximately 5381.91 bushels of soybeans, owned by Jim and Janet Lasher (Lasher), which had been placed in open storage by the Lashers at Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without the Lashers' permission, and the proceeds derived therefrom were wrongfully withheld from the Lasher's by defendants.

i. Between on or about October 12, 2008, and November 20, 2008, approximately 4954.78 bushels of soybeans owned by William Sullinger (Sullinger), which had been placed in open storage by Sullinger at Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Sullinger's permission, and the proceeds derived therefrom were wrongfully withheld from Sullinger by defendants.

j. Between on or about October 17, 2008, and December 30, 2008, approximately 7104.36 bushels of soybeans, 2928.57 bushels of corn, and 292 bushels of wheat owned by Rexing Farms, Inc. (Rexing), which had been placed in open storage by Rexing at Gallatin Grain were sold, transferred or otherwise disposed of by the Daniel and Pauline Froman without Rexing's permission, and the proceeds derived therefrom were wrongfully withheld from Rexing by defendants.

k. Between on or about November 22, 2008, and February 12, 2009, approximately 4233.21 bushels of corn owned by Carlotta Arnold (Arnold), which had been placed in open storage by Arnold at Gallatin Grain, were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Arnold's permission, and the proceeds derived therefrom were wrongfully withheld from Arnold by defendants.

l. Between on or about November 24, 2008, and December 30, 2008, approximately 6283.47 bushels of soybeans and 5,153.75 bushels of corn owned by Keith Sutton (Sutton), which had been placed in open storage by Sutton at Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Sutton's permission, and the proceeds derived therefrom were wrongfully withheld from Sutton by defendants.

m. Between on or about January 13, 2009, and February 12, 2009, approximately 15,223.95 bushels of corn and 10,868.00 bushels of soybeans, owned by Scott Harris (Harris), which were contracted for sale to Gallatin Grain were sold, transferred or otherwise disposed of by Daniel and Pauline Froman without Harris's permission, and the proceeds derived therefrom were wrongfully withheld from Harris by defendants.

n. On July 17, 2008, BTC Bank loaned \$100,000 to Daniel F. and Pauline K. Froman; thereafter, BTC loaned Daniel and Pauline Froman \$400,000 on July 18, 2008.

o. The loans made by BTC to the Fromans through an increased line of credit approved May 8, 2008, were based on the false financial information provided in the 2007 financial statement, dated December 31, 2007.

p. On or about February 8, 2009, Daniel Froman directed that four tractor trailers containing 1200-1300 bushels of soybeans and corn, plus farm equipment be delivered from Missouri to Falls City, Nebraska for the purpose of selling the soybeans, corn and equipment to B.W..

q. At the time the soybeans and corn were delivered to B.W., Daniel Froman knew he was unable to pay his creditors, including the farmers who stored soybeans and corn at Gallatin Grain and BTC Bank.

r. B.W. paid for the soybeans, corn, farm equipment and four tractor trailers via a wire transfer of \$100,000 from Hiawatha-Citizens State Bank and Trust in Hiawatha, Kansas, to the Gallatin Grain in Gallatin, Missouri, on February 12, 2009.

s. The Grand jury incorporates by reference as additional overt acts the mail fraud, wire fraud, bank fraud, and interstate transportation of stolen property undertaken in furtherance of the conspiracy and to accomplish the object of the conspiracy as set forth in Counts Two-Five.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO
(Mail Fraud)

27. The allegations contained in paragraphs One through Eight of this Indictment are re-alleged and incorporated by reference.

28. On or about May 2, 2008, said date being approximate, in the Western District of Missouri and elsewhere, Daniel Froman and Pauline Froman, aiding and abetting each other with intent to defraud, for the purpose of executing the above scheme and artifice to defraud and to hide their fraudulent scheme from State of Missouri Department of Agriculture licensing authorities, knowingly caused to be sent and delivered by the United States Postal Service, a fraudulent 2007 Financial Statement described below:

COUNT	DEFENDANTS	DATE	Description of Document
2	Daniel Froman Pauline Froman	5/02/08	December 31, 2007 Financial Statement mailed to the State of Missouri Department of Agriculture, Grain Regulatory Services

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

COUNT THREE
(Wire Fraud)

29. The allegations contained in paragraphs One through Eight of this Indictment are re-alleged and incorporated by reference.

30. That between on or about February 6, 2009 to and including February 12, 2009, said dates being approximate, in the Western District of Missouri and elsewhere, Daniel Froman, with intent to defraud, devised and intended to devise a scheme to defraud his creditors, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. It was part of the scheme that Daniel Froman caused soybeans, corn and grain belonging to Jim and Janet Lasher, William Sullinger, Rexing Farms, Inc., Carlotta Arnold, Keith Sutton, Jeff Ward, Ron Ward Farm, Inc., Scott Harris, Walter Burnett, Gary Baxter and others to be transported from the state of Missouri to the state of Nebraska and sold the soybeans and corn to B.W. for Daniel Froman's own benefit.

31. Defendant Daniel Froman, for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds associated with payment of \$100,000.00 through wire transfer from B.W. to Gallatin Grain.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FOUR
(Bank Fraud)

32. The allegations contained in paragraphs One through Eight of this Indictment are re-alleged and incorporated by reference.

33. That between on or about December 31, 2007 and July 18, 2008, in the Western District of Missouri and elsewhere, with intent to defraud and for the purpose of executing a scheme to defraud a financial institution that is insured by the Federal Deposit Insurance Corporation, and to obtain monies, credits, assets, securities, or other property owned by, or under the custody and control of, a financial institution by means of false or fraudulent pretenses, representations, and promises, Daniel and Pauline Froman, aiding and abetting each other, completed and submitted a materially false 2007 financial statement to BTC Bank.

All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT FIVE
(Interstate Transportation of Stolen Property)

34. The allegations contained in paragraphs One through Twenty-Six of this Indictment are re-alleged and incorporated by reference.

35. On or about February 8, 2009, said date being approximate, in Gallatin, Missouri, in the Western District of Missouri, defendant Daniel Froman knowingly transported or caused to be transported approximately 1200-1300 bushels of soybeans and corn, valued at more than \$5,000 from Gallatin Grain Company to Falls City, Nebraska, knowing the same to have been stolen, converted or taken by fraud.

All in violation of Title 18, United States Code, Section 2314.

ALLEGATION OF CRIMINAL FORFEITURE

The allegations contained in Counts One through Five of this Indictment are re-alleged and incorporated by reference for the purpose of alleging a forfeiture pursuant to the provisions of Title 18, United States Code, Sections 982(a)(1) and (a)(2)(A).

The defendants named herein shall forfeit to the United States all property, real and personal, constituting and derived from any proceeds defendants obtained directly and indirectly as a result of the violation incorporated by reference in this Allegation and all property used, or intended to be used, in any manner or part, to commit, and to facilitate the commission of the violation incorporated by reference in this Allegation, including but not limited to the following:

Cash Proceeds

Approximately \$3,113,023.95 in United States Currency, in that at least this sum, in aggregate, was received by defendants in connection with the allegations set forth in Counts One through Five is traceable thereto.

Substitute Assets

If any of the above-described forfeitable property of the above-named defendants, as a result of any act or omission of the defendants --

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b)(2), to seek forfeiture of any other property of defendants up to the value of the above-described forfeitable property.

All in violation of Title 18, United States Code, Sections 982(a)(1) and (a)(2)(A), and Rule 32.2(a), Federal Rules of Criminal Procedure.

A TRUE BILL.

FOREPERSON OF THE GRAND JURY

Jane Pansing Brown # 30658
Assistant United States Attorney

Dated: _____
Kansas City, Missouri