

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**FILED**

**JUL 16 2009**

**U. S. DISTRICT COURT  
E. DIST. OF MO.  
ST. LOUIS**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 ) No.  
 CATHY M. GIESEKER )  
 )  
 Defendant. )

**4 : 0 9 C R 0 0 4 6 0 C A S**

**INDICTMENT**

**COUNT ONE**  
**(Mail Fraud)**

The Grand Jury charges that:

**A. INTRODUCTION**

1. At all times pertinent herein, Cathy M. Gieseker (Gieseker) operated a grain trucking and marketing company from her residence at 35424 Audrain Road 708, Martinsburg, Missouri, 65264.

2. At all times pertinent herein, Gieseker was paid by farmers to transport grain and to market grain. Gieseker was paid approximately .20 - .25 cents per bushel for transportation and approximately .03 cents per bushel for marketing grain to grain terminals.

3. Beginning in 1993, Gieseker and her late husband, Timothy Gieseker, operated strictly as a trucking company and were paid for shipping farmers' grain to grain terminals in the Eastern District of Missouri and elsewhere. The trucking business was operated at various times under the entities "T.J. Gieseker Farms and Trucking" and "T.J. Gieseker Trucking, LLC." In

1993, as part of this trucking business, Gieseke obtained a Missouri Class IV Grain Dealer's License from the Missouri Department of Agriculture.

4. At all times pertinent herein, Missouri Class IV grain dealers were licensed as dealers primarily engaged in the trucking or transportation business, who incidental to or as a part of their business, bought or sold grain. Besides being required to maintain a minimum net worth, Class IV Dealers were required to make payment to the grain seller within thirty (30) days of delivery, or upon demand of said seller, whichever occurred first. Such dealers could NOT issue minimum price contracts or any type of credit sales contract, including delayed price and deferred payment contracts. In addition, Class IV Dealers were not authorized to offer storage of grain for any of their customers.

5. Beginning in or about October 2002, and continuing until February 2009, Cathy Gieseke, in addition to transporting grain, began to market grain on behalf of farmers. In this capacity, Cathy Gieseke quoted above-market prices to farmers and represented that she had contracts from Archer Daniels Midland Company (ADM) to guarantee said prices. During the course of this scheme, Cathy Gieseke delivered and sold virtually all of the grain at ADM.

6. At all times pertinent herein, Cathy Gieseke did not hold contracts that guaranteed the above-market prices she had quoted farmers from ADM. Instead, she sold all of her grain at the "spot price" (local cash price for immediate settlement and delivery) and used the proceeds from subsequent grain transactions to pay the above-market prices she had previously promised other farmers. In this manner, Gieseke defrauded approximately 180 farmers out of approximately \$27,000,000 - \$50,000,000 in proceeds from grain sales she made on their behalf, with most of the proceeds going to pay other farmers who had previously been quoted above-

market prices. The farmers who agreed to allow Giesecker to sell their grain toward the end of Giesecker's scheme to defraud received no payments from Giesecker, as she used the proceeds from their sales to pay earlier farmers involved in her scheme to defraud.

**B. THE SCHEME TO DEFRAUD**

7. Beginning in or about October 2002, and continuing until in or about February 2009, in the Eastern District of Missouri and elsewhere,

**CATHY M. GIESEKER,**

the defendant herein, did voluntarily and intentionally participate in a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

8. It was part of the scheme to defraud that Cathy Giesecker operated a "Ponzi" scheme whereby payments to farmers for grain sold at higher than market prices were paid through monies gained through the subsequent sale of grain supplied by other farmers despite the fact that insufficient funds were generated to pay all farmers the promised rates.

9. It was further part of the scheme to defraud that Cathy Giesecker made false representations regarding her marketing practices. Specifically, Giesecker misrepresented that she could provide farmers with above-market prices for grain she marketed and promised prices ranging from 50% - 100% higher than the current "spot" commodity prices that were then available to farmers, when in truth, as she well knew, she could not do so. Giesecker needed to continually promise above-market prices in order to attract a sufficient volume of customers to continue her scheme to defraud.

10. It was further part of the scheme to defraud that in the early stages, Cathy

Giesekeer became well-known in the farming community for her ability to deliver remarkably high prices to the farmers. Throughout this time, Giesekeer did not reveal that she was simply selling the crops at the “spot price” and using later farmers’ grain to pay for the above-market prices she had quoted earlier farmers for their grain.

11. It was further part of the scheme to defraud that with these high price quotes, Giesekeer was able to greatly expand the amount of grain she transported and marketed. Giesekeer secured the business of at least 180 farmers in Missouri and Illinois and ultimately became one of the largest grain shippers in Missouri during the scheme to defraud.

12. It was further part of the scheme to defraud that victim farmers agreed with Giesekeer for a delivery date (a date the grain would be shipped from the farmer’s storage bins to the grain terminal), a contract sale date (the date the farmer expected the grain to be sold to the terminal), and a payment date (the date the farmer requested payment). The contract sale date and the payment date were often months or years after the delivery date. In addition, some farmers made additional agreements with Cathy Giesekeer, whereby they delayed payment beyond the original payment date to delay income recognition. The cumulative effect of these delays in the payment dates was what provided Giesekeer the “float” she needed to pay previous farmers the above-market prices she promised by using the proceeds from later transactions she conducted on behalf of other farmers.

13. It was further part of the scheme to defraud that Cathy Giesekeer did not provide any written contracts to her customers. Instead, the agreements were made on a verbal basis.

14. It was further part of the scheme to defraud that Cathy Giesekeer concealed her activities from the Missouri Department of Agriculture (MDA). In order to renew her Missouri

Class IV Grain Dealer's License, Gieseke was required to report in financial statements she provided to the MDA, the amount of her accounts payable to customers, that is, grain purchased by Gieseke without payment to farmers. In 2007, Gieseke under-reported her accounts payable to the Missouri Department of Agriculture by at least approximately \$4,835,000.

15. It was further part of the scheme to defraud that in June 2008, September 2008, and February 2009, Cathy Gieseke withheld material information from auditors working for the MDA. Again, Gieseke under-reported her accounts payable by stating to auditors that she had no outstanding obligations, when in fact she owed at least approximately \$13,000,000 in June, 2008, \$16,000,000 in September 2008, and \$27,000,000 in February 2009.

16. In the late stages of this scheme to defraud, from approximately October 2008, to February 2009, Gieseke, in an attempt to attract enough customers to keep her scheme to defraud going, represented to multiple farmers that she was transporting grain for storage to ADM facilities in Mexico, Missouri and Saint Louis, Missouri. The farmers believed their grain was being held by ADM until the farmer chose to sell the grain at a future date. Instead, Gieseke made unauthorized sales of the purported "storage" grain at the "spot price" and used the proceeds to further the scheme to defraud. In this manner, Cathy Gieseke fraudulently sold at least an additional \$100,000 in grain.

### **C. THE MAILING**

17. On or about June 12, 2008, in the Eastern District of Missouri and elsewhere,

**CATHY M. GIESEKER,**

the defendant herein, having voluntarily and intentionally participated in a scheme to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and



promises, and for the purpose of executing this scheme and in attempting to do so, did knowingly cause to be sent and delivered by the United States Postal Service from Mexico, Missouri, to the Missouri Department of Agriculture - Grain Regulatory Services in Jefferson City, Missouri, a fraudulent financial statement.

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

**COUNT TWO**  
**(Wire Fraud)**

The Grand Jury further charges that:

1. The allegations set forth in Count One are hereby realleged and incorporated by reference.
2. On or about December 31, 2008, in the Eastern District of Missouri and elsewhere,

**CATHY M. GIESEKER,**

the defendant herein, for the purpose of executing the scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, did knowingly and willfully cause to be transmitted in interstate commerce, certain signs, signals and sounds by means of wire communication, that is an interstate wire transfer of funds in the amount of \$34,653.94 from Martinsburg Bank and Trust, Martinsburg, Missouri, to Shelby County State Bank, Shelbyville, Illinois, said payment being payment for grain sales made at above-market prices.

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

**COUNT THREE**  
**(Interstate Transportation of Stolen Property)**

The Grand Jury further charges that:

1. The allegations set forth in Count One are hereby realleged and incorporated by reference.
2. From on or about April 28, 2008 until on or about April 29, 2008, in the Eastern District of Missouri and elsewhere,

**CATHY M. GIESEKER,**

the defendant herein, having devised and intended to devise the aforesaid scheme and artifice to defraud described in Count One, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, did transport, cause to be transported, and induce to be transported in interstate commerce H.F.'s yellow corn crop, in the execution of the aforesaid scheme and artifice to defraud H.F. of property, having a value of \$5,000.00 or more, that is approximately 7,416 bushels of yellow corn.

In violation of Title 18, United States Code, Section 2314.

**COUNT FOUR**  
**(FORFEITURE ALLEGATION)**

1. The allegations of Counts One, Two and Three in this Indictment are hereby repeated and re-alleged as if fully set forth herein for the purpose of alleging forfeiture to the United States pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, 2461(c), and Title 21, United States Code, Section 853.
2. All property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, including but not limited to the

following:

A sum of money equal to \$27,000,000 or more in United States Currency, in that such sum in the aggregate is property constituting, or derived from, any proceeds the defendants obtained, directly or indirectly, as a result of the offense alleged in Counts One, Two and Three.

3. Specifically subject to forfeiture are properties as set out in paragraph 2 above, which include, but are not limited to:

- (a) Real Property located at 35424 Audrain Road 708, Martinsburg, Missouri more particularly described as :

Legal Description: 50-07-01 167A - E ½ NW & W 12 NE (EX RD R/W)

Audrain County

Permanent Parcel No. 261010000002 Single Family Residence, plus 167 acres

- (b) Real Property located at AR 708, Audrain County, Martinsburg, Missouri more particularly described as :

Legal Description: 51-07-36 124 AC - W ½ SE & SE SE (EX RD R/W)

Audrain County

Permanent Parcel No. 1773600000060901549 Vacant Land - 124 acres

- (c) Real Property located at Hwy B & Audrain Road 448

Legal Description: 52-07-31 78 AC - E ½ NE (EX RD R/W) Audrain

County

Permanent Parcel No. 129310000001 Vacant Land - 78 acres



(d) Real Property located at Audrain Road 424

Legal Description: 51-07-07 77 AC - E ½ SW (EX RD R/W) Audrain  
County

Permanent Parcel No. 173070000008 Vacant Land - 77 acres

(e) Real Property located at 101 2<sup>nd</sup> Street, Rush Hill, Missouri more

particularly described as:

Legal Description: RUSH HILL OUT LOTS (105 X 140 IRR) OUT LOT  
3, E OF BLK 8 R H ORIG LYING N OF 2<sup>ND</sup> ST & S ½ VAC ADJ 3<sup>RD</sup> ST

(f) Personal property consisting of vehicles more particularly described as:

1. 1998 Semi Tractor VIN: 1XKADR9X0WR789403
2. 1997 Semi Tractor VIN: 1XKADR9X3VR732031
3. 2000 Semi Tractor VIN: 1XKAD68X9YR842537
4. 1998 Semi Tractor VIN: 1XKADR9X6WR760214
5. 1998 Semi Tractor VIN: 1XKDDB9X9WJ773607
6. 2002 Grain Semi Trailer VIN: 1W1MAFYA82A234713
7. 2007 Livestock Trailer VIN: 1Z9SG242870169264
8. 1981 Utility Trailer VIN: 11591
9. 2008 Utility Trailer VIN: 5L3AX16278L000342
10. 2003 Utility Trailer VIN: 4YMUL081X3M010471
11. 2002 Utility Trailer VIN: 1W1MAFYA92A233831
12. 2003 Semi Tractor VIN: 1XKWDB9X03R383601
13. 1995 Semi Tractor VIN: 1M1AA13Y2SW044977

14. 2003 Grain Semi Trailer VIN: 1W1MAFYA43A236931
15. 2003 Grain Semi Trailer VIN: 1W1MAFYA236614
16. 2005 Grain Semi Trailer VIN: 1W1MAFZA85A240451
17. 2009 Grain Semi Trailer VIN: 4WWAFY493614154
18. 2008 Ford 350 VIN: 1FTWW33R18ED24867
19. 2007 Ford Expedition VIN: 1FMFU18547LA82730
20. 2004 Ford Explorer VIN: 1FMZU73K54ZA84525
21. Kawasaki ATV VIN: JKBVFHA154B536839
22. Kawasaki ATV VIN: JKALFMA106B552261

4. If any of the property described in paragraph 2 above, as a result of any act or omission of the defendant,

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred to, sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; and/or
- (e) has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), Title 18, United States Code, Section 981(a)(1)(C), and Title 28 United States Code Section 2461, to seek forfeiture of any other property of the defendant, including but not limited to the

property set forth in paragraph 3 to the extent it is not directly forfeitable, up to the value of the property described above in paragraph 2 as being subject to forfeiture.

A TRUE BILL.

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FOREPERSON

MICHAEL W. REAP  
Acting United States Attorney

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MATTHEW T. SCHELP, #94363  
Assistant United States Attorney