

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

|                           |   |                            |
|---------------------------|---|----------------------------|
| UNITED STATES OF AMERICA, | ) |                            |
|                           | ) |                            |
| Plaintiff,                | ) |                            |
|                           | ) |                            |
| vs.                       | ) | No. <u>09-40052-01-RDR</u> |
|                           | ) |                            |
| MICHAEL R. "MICK" WUNDER, | ) |                            |
|                           | ) |                            |
| Defendant.                | ) |                            |
| _____                     | ) |                            |

SEALED INDICTMENT

The Grand Jury Charges:

At all times material to this indictment:

1) Junction City, Kansas is a municipality of the State of Kansas. Nearby is Fort Riley, home of the 1<sup>st</sup> Army Infantry Division, the "Big Red One."

2) Junction City has a city commission form of government. It consists of five commissioners one of whom is mayor on a rotational basis. MICHAEL R. "MICK" WUNDER (hereinafter "defendant" or "WUNDER") was a City Commissioner and served as Mayor of the City from time to time.

3) DAVID RAY FREEMAN, is a building contractor residing in Lawrence, Kansas. FREEMAN is a signatory on the accounts of Tri-County Foundations, LLC, L and K Trucking LLC, and Big D LLC, at The University National Bank in Lawrence, Kansas. FREEMAN also maintains accounts at Lawrence Bank, Lawrence, Kansas.

4) In approximately 2004, representatives of Junction City were expecting a large troop buildup at Fort Riley with the hope and expectation that the population

of Junction City could double. As a result the City began annexation of 1400 acres and laid plans to enhance the local housing market and expand the local economy.

5) In 2004, FREEMAN traveled to Junction City to look into investments in land for building. There were reports that soldiers would be returning to the Junction City/Fort Riley area and the city needed houses built quickly. FREEMAN during this period came to know and become friends with MICHAEL R. "MICK" WUNDER .

6) On May 1, 2006, FREEMAN issued a \$5,000 check made payable to the wife of MICHAEL R. "MICK" WUNDER, on the account of Tri-County Foundations, LLC at The University National Bank, Lawrence, Kansas.

7) On May 5, 2006, Big D Development LLC and Big D Construction LLC (hereinafter collectively referred to as "Big D") were formed by FREEMAN and other Lawrence Kansas residents. FREEMAN held a 50% interest in Big D. FREEMAN bragged to partners in BIG D, and others, that he had a Junction City Commissioner in his pocket and could get anything approved through the City Commission.

8) In June 2006, the defendant, MICHAEL R. "MICK" WUNDER, traveled from his residence in Kansas, to the Country Club Plaza in Missouri, where he received gratuities from FREEMAN, to which he was not lawfully entitled by his elected position, including lodging at the Sheraton on the Plaza, dinner and drinks at an Italian Restaurant, and limousine service.

9) On July 6, 2006, FREEMAN issued a \$5,000 check made payable to MICHAEL R. "MICK" WUNDER , on the account of L and K Trucking LLC at The University National Bank, Lawrence, Kansas.

10) On July 27, 2006, Big D was the beneficiary of a development contract for Sutter Woods Subdivision in Junction City. On August 30, 2006, Big D was the beneficiary of a development contract for Sutter Highlands Subdivision in Junction City. The two contracts were worth in excess of \$12,000,000 to Big D.

11) Sometime after the City Commission awarded/approved the Sutter Wood development agreement to Big D, Big D set aside the choice lot, Lot 19 of Block 5 of the Sutter Woods development, for a residential home for "firefighter" a code name for MICHAEL R. "MICK" WUNDER.

12) In or about March of 2007, FREEMAN had an assistant draw and cash a check for \$9,000, and deliver the cash to MICHAEL R. "MICK" WUNDER at a rest stop between Topeka, and Junction City, Kansas.

13) In the United States, the Bank Secrecy Act requires the filing of a currency transaction report (CTR) for transactions of US \$10,000.01 or more. Federal law makes it a crime to knowingly "structure" financial transactions to cause a domestic financial institution to fail to file such report by structuring transactions in an amount under \$10,000.

14) At all times relevant to this Indictment, FREEMAN would instruct his assistant to draw and cash checks for amounts under US \$10,000, to avoid having the bank report these amounts to the government.

15) The University National Bank of Lawrence and Lawrence Bank are financial institutions, as defined by Title 18 United States Code, Section 20, and are insured depository institutions as defined by section 3(c)(2) of the Federal Deposit Insurance Act.

16) The defendant herein, MICHAEL R. "MICK" WUNDER, as an elected official and public servant, owed a fiduciary duty to the public to discharge his duties in the public's best interest, and to refrain from accepting gratuities to which he was not lawfully entitled.

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

17) Paragraphs 1 through 16 are incorporated herein by reference.

18) Beginning in at least 2004, the precise date being unknown to the grand jury, and continuing through the return of this indictment, the defendant herein,

MICHAEL R. "MICK" WUNDER

combined, conspired, confederated and agreed with DAVID RAY FREEMAN, to

commit offenses against the United States of America, in the District of Kansas and elsewhere, that is:

- a) To violate the Hobbs Act, Title 18 U.S.C. § 1951;
- b) To Structure Financial Transactions to evade currency reporting requirements in violation of Title 31 United States Code, Section 5324; and
- c) To Commit Bank Fraud in violation of Title 18 United States Code, Section 1344.

19) In furtherance and execution of the conspiracy WUNDER and FREEMAN committed overt acts, as outlined in paragraphs 1 through 16, and including, but not limited to, the substantive crimes that follow.

**Count 2**  
**Structuring Financial Transactions to Evade Reporting Requirements**  
**A violation of Title 18 United States Code §2 and Title 31 United States Code**  
**§5324**

20) Paragraphs 1 through 16 are incorporated herein by reference.

21) On or about March 9, 2007, in the District of Kansas, the defendant,

MICHAEL R. "MICK" WUNDER

knowingly and for the purpose of evading the reporting requirements of section 5313(a) of title 31, United States Code, and the regulations promulgated thereunder, structured, assisted in structuring, and attempted to structure the following transactions with Lawrence Bank, domestic financial institutions, that is WUNDER had FREEMAN draw and cash a check at Lawrence Bank in the amount of \$9,000 in

currency and deliver to WUNDER at a rest stop on Interstate 70 between Topeka and Junction City.

**Counts 3 through 7**  
**Hobbs Act - Obtaining Property of Another Under Color of Official Right**  
**A Violation of Title 18 United States Code, Sections 2 & 1951**

22) Paragraphs 1 through 16 are incorporated herein by reference.

23) On or about the dates set forth below, in the District of Kansas, the defendant herein,

MICHAEL R. "MICK" WUNDER

did knowingly attempt and conspire to obstruct, delay, and affect in any way and degree commerce and the movement of articles and commodities in commerce by extortion, that is, MICHAEL R. "MICK" WUNDER obtained property consensually provided to him as a Junction City Commissioner, under color of official right, which was not lawfully due him as an elected official, as follows:

| Count | Date         | Property  |
|-------|--------------|---|
| 3     | May 1, 2006  | WUNDER's wife received a check for \$5,000, on the account of Tri-County Foundations, LLC, at The University National Bank, Lawrence. |
| 4     | June of 2006 | lodging at the Sheraton on the Plaza, dinner and drinks at an Italian Restaurant, and limousine service                               |

|   |                 |  |
|---|-----------------|--|
| 5 | July 6, 2006    | WUNDER received a check for \$5,000, on the account of L and K Trucking LLC, at The University National Bank, Lawrence.  |
| 6 | After July 2006 | Lot 19 of Block 5 of Sutter Woods, for a residential home for “firefighter” a code name for MICHAEL R. “MICK” WUNDER.  |
| 7 | March of 2007   | WUNDER received \$9,000 in cash on a check drawn on the account of DAVID R. FREEMAN at Lawrence Bank, Lawrence, Kansas, and cashed to provide the payment to WUNDER. |

**Counts 8 through 10**

**Bank Fraud**

**In Violation of Title 18, United States Code, Sections 2 and 1344(2)**

24) Paragraphs 1 through 16 are incorporated herein as though fully set forth.

25) On or about the dates set forth below, in the District of Kansas and elsewhere, the defendant,

MICHAEL R. “MICK” WUNDER

knowingly executed, and attempted to execute, a scheme and artifice to defraud the citizens of Junction City, Kansas, to the right of honest services from their publicly elected officials, by obtaining the moneys, funds, credits, assets, securities, and other property, under the custody or control of federally insured institutions, The University Bank, Lawrence, Kansas, and Lawrence Bank, to fund gratuities that were not lawfully due him as, a City Commissioner and elected official for

Junction City, Kansas:

| <b>Count</b> | <b>Date</b>  | <b>Transaction</b>   |
|--------------|--------------|--|
| 8            | May 1, 2006  | WUNDER's wife received a check for \$5,000, on the account of Tri-County Foundations, LLC, at The University National Bank, Lawrence.                                |
| 9            | July 6, 2006 | WUNDER received a check for \$5,000, on the account of L and K Trucking LLC, at The University National Bank, Lawrence.  |
| 10           | March 2007   | WUNDER received \$9,000 in cash on a check drawn on the account of DAVID R. FREEMAN at Lawrence Bank, Lawrence, Kansas, and cashed to provide the payment to WUNDER. |

**COUNT 11**

**PERJURY**

**IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1623**

26) Paragraphs 1 through 16 are incorporated as though fully set forth.

27) On or about April 16, 2009, in the District of Kansas, the defendant,

MICHAEL R. "MICK" WUNDER

having been placed under oath in a proceeding before a Grand Jury of the United States, knowingly made a false material declaration, by giving the following answers to the following questions:

Q. Now, you indicate apparently that this \$9,000 was in payment to him (FREEMAN) for items he'd already received?

A. Payments to Mr. Freeman?

Q. Yes – I'm sorry, the money came from Mr. Freeman for items you'd already given to him?

Q. Yes, sir.

Q. And there were four items?

A. There were three baseballs, a bat, and a picture.

### **FORFEITURE NOTICE & ALLEGATION**

28) 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, Hobbs Act in violation of Title 18 United States Code, Section 1951, and structuring in violation of Title 31 United States Code, Section 5324, the defendant

MICHAEL R. "MICK" WUNDER

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) A money judgment in the amount of the proceeds obtained.

B) In the event any of the foregoing property: I) cannot be located upon the exercise of due diligence; ii) is transferred, sold to, or deposited with, a third party; iii) is placed beyond the jurisdiction of the Court; iv) is substantially diminished in value; or, v) 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 defendant, up to the value of the money judgment obtained pursuant to paragraph 28) A.

A TRUE BILL.

Dated: June 10, 2009

s/Foreperson  
FOREPERSON

s/Richard L. Hathaway, #07767 for  
LANNY D. WELCH  
United States Attorney

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