

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

**FILED**

FEB 25 2014

By PATRICK KEANEY  
Clerk, U.S. District Court  
Deputy Clerk

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

ROY LYNN WESBERRY,

*Defendant.*

Case No.

**CR 14-019-JHP**

INDICTMENT

The Federal Grand Jury charges:

INTRODUCTION

At all times relevant to the Indictment:

1. First National Bank of Davis (FNB) was a federally insured national bank with one location in downtown Davis, Oklahoma, within the Eastern District of Oklahoma.
2. FNB was insured by the Federal Deposit Insurance Corporation (FDIC) and examinations of the Bank were conducted by the Office of Comptroller of Currency (OCC).
3. W.A. Moore, Jr., more commonly known as "Dub Moore", was President of FNB and owned 15.38% of Davis Bancorporation, Inc., the company that owned FNB.
4. Dub Moore was paid a salary as Bank President and received dividends as a shareholder in Davis Bancorporation, Inc.
5. As President of FNB, Dub Moore had ultimate authority over the day to day operations of FNB.
6. The OCC conducted examinations of FNB in August 2008, January 2010 and February 2011.

7. Every national bank, including FNB, has limits on the amount it can loan to one borrower and interdependent entities. These limits, called “legal lending limits”, are based upon a percentage of the bank’s capital and surplus. In 2011, FNB had a legal lending limit of \$1.22 million.

8. Southern Rock, Inc., (SRI), was a construction business located in Davis, Oklahoma. **ROY LYNN WESBERRY**, defendant herein, was an officer of the corporation.

9. Southern Rock Equipment, Inc., (SREI), was established in 2008 by Defendant **ROY LYNN WESBERRY**’s wife.

10. SREI was a bonded general contractor engaged in obtaining large construction contracts that would be subcontracted out to SRI.

11. SRI and SREI were substantially financially dependent upon each other.

12. The January 2010 OCC examination cited FNB for two violations of the legal lending limits for customers, SRI and SREI.

13. The OCC notified FNB that they would be conducting an examination in February, 2011.

14. On or about February 16, 2011, the OCC held a discussion with Dub Moore concerning SRI’s overdraft of \$1,627,875.00 and violation of the legal lending limits.

15. The OCC examination identified credit losses that exceeded FNB’s capital base. FNB’s books and records were identified inaccurate and the bank was found to be “critically undercapitalized.”

16. As a result of the violations revealed by the examination, the OCC closed FNB on March 11, 2011 and the FDIC was appointed receiver of the bank.

17. A nominee loan is a loan in the name of one party that is intended for use by another.

**COUNT ONE**

**(18 U.S.C. § 1349 – Conspiracy to Commit Bank Fraud)**

**A. OBJECT OF THE CONSPIRACY**

From on or about February 1, 2011, through February 28, 2011, the exact dates unknown to the Grand Jury, **ROY LYNN WESBERRY**, defendant herein, (**WESBERRY**), coconspirator Dub Moore, and others unknown and known to the Grand Jury, knowingly conspired, agreed and confederated to execute and attempt to execute, a scheme and artifice to defraud FNB, a federally insured national bank, in violation of Title 18, United States Code, Section 1344.

**B. MANNER AND MEANS OF CONSPIRACY**

1. In order to accomplish the objectives of the conspiracy and in furtherance thereof, **WESBERRY** and Dub Moore solicited individuals to apply for nominee loans. The majority of the proceeds from the nominee loans were deposited into **WESBERRY's** account at FNB to offset his overdraft or applied to **WESBERRY's** loans. The purpose for the loans was to conceal from the OCC that **WESBERRY's** accounts were overdrawn and that **WESBERRY** had loans in violation of the legal lending limit.

2. In order to accomplish the objectives of the conspiracy and in furtherance thereof, in or about February, 2011, **WESBERRY** and Dub Moore recruited an individual, C.J., to apply for a nominee loan in C.J.'s name. The majority of the proceeds from the nominee loans were deposited into **WESBERRY's** account at FNB to offset his overdraft or applied to **WESBERRY's** loans. In exchange for obtaining the loan, C.J. received a small portion of the loan proceeds to purchase oil wells.

3. In order to accomplish the objectives of the conspiracy and in furtherance thereof, in or about February, 2011, **WESBERRY** recruited J.S., an individual, to apply for a business loan from FNB for his corporation, A.A. Services, Inc.. On or about February 14, 2011 Dub Moore caused a loan to be completed to A.A. Services, Inc., without the company's knowledge. The majority of the proceeds from the nominee loans were deposited into **WESBERRY's** account at FNB to offset his overdraft or applied to **WESBERRY's** loans.

4. In order to accomplish the objectives of the conspiracy and in furtherance thereof, in or about February, 2011, **WESBERRY** and Dub Moore recruited an individual, M.S., an employee of **WESBERRY**, to apply for a nominee loan in M.S.'s name. The majority of the proceeds from the nominee loans were deposited into **WESBERRY's** account at FNB to offset his overdraft or applied to **WESBERRY's** loans. In exchange for applying for the loan, M.S. was to receive money to purchase a truck.

5. In order to accomplish the objectives of the conspiracy and in furtherance thereof, on or about February, 2011, Dub Moore caused a loan to be approved for an individual, J.C., for the purchase of oil wells. On or about February 9, 2009, J.C. came to FNB to sign loan documents and discovered the loan had been increased from the \$90,000.00 J.C. had requested to \$900,096.00. Dub Moore told J.C. the increase in the loan was to purchase more oil wells. The majority of the proceeds from the nominee loans were deposited into **WESBERRY's** account at FNB to offset his overdraft or applied to **WESBERRY's** loans.

6. The purpose of the nominee loans was to conceal from the OCC that Dub Moore had continued to loan **WESBERRY** money in violation of FNB's legal lending limit.

**OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

In furtherance of the conspiracy and to effect and accomplish its objectives, **ROY LYNN WESBERRY**, defendant herein, (**WESBERRY**) and Dub Moore and others known and unknown to the Grand Jury, committed the following overt acts, among others, in the Eastern District of Oklahoma and elsewhere.

1. In or about February 2011, **WESBERRY** and Dub Moore convinced C.J. to apply for a loan at FNB.

2. Dub Moore caused Loan 72671 to be prepared for Borrower C.J. in the amount of \$1,044,470.30. The majority of the loan proceeds were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

3. In or about February 2011, **WESBERRY** convinced J.S. to apply for a business loan from FNB. J.S. applied for the loan in his corporation's name, A.A. Services, Inc.

4. Dub Moore, caused Loan 72683 to be prepared for Borrower A.A. Services, Inc. in the amount of \$900,020.00. The loan proceeds were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

5. In or about February 2011, **WESBERRY** convinced M.S. to apply for a business loan from FNB.

6. Dub Moore caused Loan 72684 to be prepared for Borrower M.S. in the amount of \$900,325.00. The majority of the loan proceeds were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

7. In or about February 2011, Dub Moore accepted a loan request from J.C. to apply for a business loan from FNB.

8. Dub Moore, caused Loan 72677 to be prepared for Borrower J.C. in the amount of \$900,096.00. The majority of the loan proceeds were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

All in violation of Title 18, United States Code, Section 1349.

**COUNT TWO**

**(18 U.S.C. §§ 1344 and 2 – Bank Fraud)**

**THE SCHEME AND ARTIFICE**

From on or about February 1, 2011, and continuing to on or about February 7, 2011, in the Eastern District of Oklahoma and elsewhere, **ROY LYNN WESBERRY (WESBERRY)**, defendant herein, did devise and did intend to devise a scheme and artifice to defraud FNB, a federally insured financial institution.

**MEANS AND METHOD OF THE SCHEME**

The Grand Jury realleges and incorporates by reference all allegations previously alleged in this Indictment.

1. **WESBERRY** encouraged C.J. to apply for a loan from FNB for money to purchase oil wells. C.J. applied to FNB for a \$340,000.00 loan.

2. On or about February 7, 2011, C.J. went to sign the closing papers on the loan and discovered the loan amount was \$1,044,470.30. Dub Moore said **WESBERRY** needed the extra money for a short termed loan and C.J. agreed to sign the papers.

3. The loan was in C.J.'s name to avoid the OCC discovering that **WESBERRY** had a \$1,627,875.00 overdraft in his company's bank account and **WESBERRY** was over FNB's legal lending limit and in default on his loans.

4. The majority of the proceeds from C.J.'s loan were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

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

**COUNT THREE**

**(18 U.S.C. §§ 1344 and 2-- Bank Fraud)**

**THE SCHEME AND ARTIFICE**

From on or about February 1, 2011, and continuing to on or about February 10, 2011, in the Eastern District of Oklahoma and elsewhere, **ROY LYNN WESBERRY (WESBERRY)**, defendant herein, did devise and did intend to devise a scheme and artifice to defraud FNB, a federally insured financial institution.

**MEANS AND METHOD OF THE SCHEME**

The Grand Jury realleges and incorporates by reference all allegations previously alleged in this Indictment.

1. **WESBERRY** convinced M.S., **WESBERRY's** employee, to apply for a \$500,000.00 business loan from FNB.

2. On or about February 10, 2011, M.S. went to FNB to sign the closing papers on the loan and discovered the loan was for \$900,325.00.

3. Dub Moore applied the majority of the loan proceeds to **WESBERRY's** accounts to conceal from the OCC that **WESBERRY** had a \$1,627,875.00 overdraft in FNB's bank account and that **WESTBERRY** was over his legal lending limit and that **WESBERRY** was in default on his loans.

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

**COUNT FOUR**

**(18 U.S.C. §§ 1344 and 2 – Bank Fraud)**

**THE SCHEME AND ARTIFICE**

From on or about February 1, 2011, and continuing to on or about February 9, 2011, in the Eastern District of Oklahoma, **ROY LYNN WESBERRY (WESBERRY)**, defendant herein, did devise and did intend to devise a scheme and artifice to defraud FNB, a federally insured financial institution.

**MEANS AND METHOD OF THE SCHEME**

The Grand Jury realleges and incorporates by reference all allegations previously alleged in this Indictment.

1. J.C. applied to FNB for a \$90,000.00 loan to purchase oil wells.
2. On or about February 9, 2011 J.C. went to FNB to sign the closing papers on the loan and discovered the loan was for \$900,096.00. Dub Moore told J.C. that the increased loan would allow him to buy more oil wells.
3. Dub Moore applied the majority of the loan proceeds to **WESBERRY's** accounts to conceal from the OCC that **WESBERRY** had a \$1,627,875.00 overdraft in FNB's bank account and that **WESBERRY** was over his legal lending limit and that **WESBERRY** was in default on his loans.

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



**COUNT FIVE**

**(18 U.S.C. §§ 1344 and 2 – Bank Fraud)**

**THE SCHEME AND ARTIFICE**

From on or about February 1, 2011, and continuing to on or about February 14, 2011, in the Eastern District of Oklahoma and elsewhere, **ROY LYNN WESBERRY (WESBERRY)**, defendant herein, did devise and did intend to devise a scheme and artifice to defraud FNB, a federally insured financial institution.

**MEANS AND METHOD OF THE SCHEME**

The Grand Jury realleges and incorporates by reference all allegations previously alleged in the Indictment.

1. **WESBERRY** convinced J.S. to apply for a business loan from FNB. J.S. applied for the loan in his business name, A. A. Services, Inc. J.S. was not notified he was approved for the loan, and J.S. did not sign any loan documents at FNB.

2. Dub Moore caused loan documents to be prepared in the name of A. A. Services, Inc. in order to avoid the OCC discovering that **WESBERRY** had a \$1,627,875.00 overdraft in his company's bank account and **WESBERRY** was over FNB's legal lending limit and in default on his loans.

3. The proceeds from the fraudulent \$900,020.00 loan in the name of A. A. Services, Inc. were deposited into **WESBERRY's** overdraft in his account at FNB or applied to **WESBERRY's** loans.

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

**FORFEITURE ALLEGATION**

**(18 U.S.C. §§ 982, 1956 and 1957 – Forfeiture)**

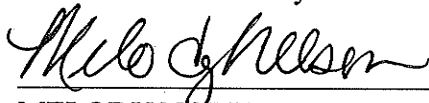
1. The allegations contained in Counts One, Two, Three, Four and Five of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Sections 982(a)(1).

2. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of an offense in violation of Title 18, United States Code, Sections 1349 and/or 1344, **ROY LYNN WESBERRY**, defendant herein, shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property. The property to be forfeited includes, but is not limited to, the following:

A sum of money equal to the amount of loss suffered by First National Bank of Davis.

A TRUE BILL:

MARK F. GREEN  
United States Attorney



MELODY NOBLE NELSON, OBA #16467  
Assistant United States Attorney

Pursuant to the E-Government Act,  
the original indictment has been filed  
under seal in the Clerk's Office.

s / Foreperson  
**FOREPERSON OF THE GRAND JURY**