

1 DONALD W. SEARLES, California Bar No. 135705
 E-mail: searlesd@sec.gov
 2 LORRAINE B. ECHAVARRIA, California Bar No. 191860
 E-mail: echavarrial@sec.gov
 3 ROBERT H. CONRRAD, California Bar No. 199498
 E-mail: conrradr@sec.gov
 4 C. DABNEY O'RIORDAN, California Bar No. 205158
 E-mail: oriordand@sec.gov

5 Attorneys for Plaintiff
 6 Securities and Exchange Commission
 Rosalind R. Tyson, Regional Director
 7 Michele Wein Layne, Associate Regional Director
 5670 Wilshire Boulevard, 11th Floor
 8 Los Angeles, California 90036-3648
 Telephone: (323) 965-3998
 9 Facsimile: (323) 965-3908

10
 11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF ARIZONA**

13 SECURITIES AND EXCHANGE
 14 COMMISSION,

15 Plaintiff,

16 vs.

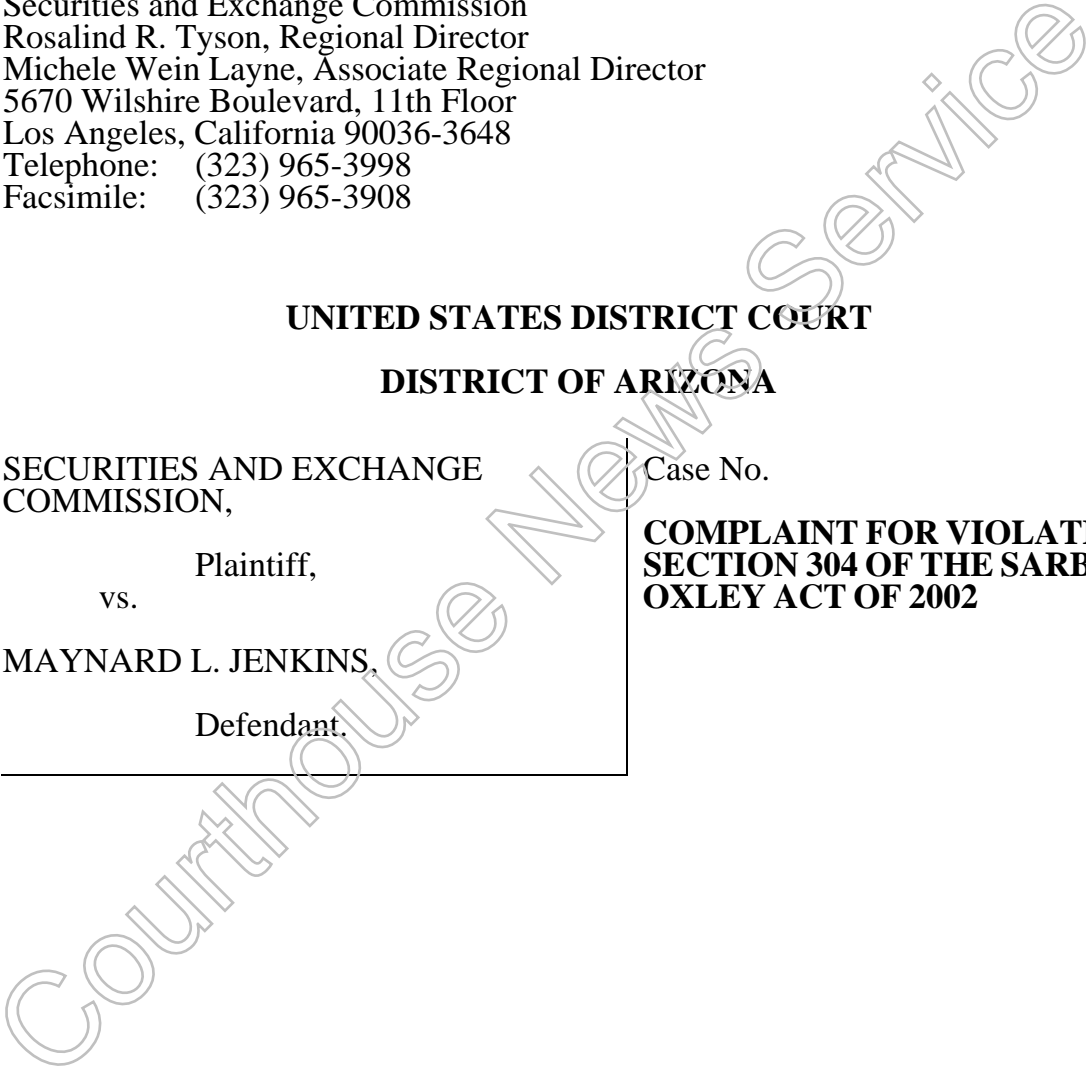
17 MAYNARD L. JENKINS,

18 Defendant.

Case No.

**COMPLAINT FOR VIOLATIONS OF
 SECTION 304 OF THE SARBANES-
 OXLEY ACT OF 2002**

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 Plaintiff Securities and Exchange Commission (the “Commission”) alleges
2 as follows:

3 **SUMMARY**

4 1. By this action, the Commission seeks an order from this Court,
5 pursuant to Section 304 of the Sarbanes-Oxley Act, requiring Maynard L. Jenkins,
6 former chairman and chief executive officer of CSK Auto Corporation (“CSK”),
7 to reimburse CSK for all of his bonuses and other incentive-based and equity-
8 based compensation, and all of his profits realized from his sale of CSK stock,
9 during the 12-month period following the issuance of CSK’s financial statements
10 contained in its annual reports for fiscal years 2002, 2003 and 2004, all of which
11 were required to be restated, not once, but twice, as a result of CSK’s fraudulent
12 conduct.

13 2. During a substantial portion of Jenkins’ decade-long tenure as
14 chairman and chief executive officer of CSK, CSK was engaged in a pervasive
15 accounting fraud, which involved many of its most senior officers, that resulted in
16 CSK filing fraudulent financial statements in its annual reports for fiscal years
17 2002, 2003 and 2004, all of which Jenkins signed.

18 3. During the period at issue, CSK was one of the largest specialty
19 retailers of automotive parts and accessories in the United States. As a retailer of
20 automotive products, CSK purchased products from vendors that manufacture
21 automotive parts and accessories. From at least fiscal years 2002 through 2004, a
22 significant portion of CSK’s income was derived from allowances it received from
23 its vendors. Vendor allowances are used to provide retailers, such as CSK, with
24 financial support to market the vendor’s products. In general, CSK accounted for
25 vendor allowances by reducing its costs of goods sold. Thus, the more vendor
26 allowances CSK earned, the lower its costs of goods sold, resulting in greater
27 reported pre-tax income. During the fiscal years at issue, CSK’s accounting of its

28 ///

1 vendor allowances were vital to CSK's financial results, and served to increase its
2 reported pre-tax income by tens of millions of dollars each fiscal year.

3 4. During fiscal years 2002, 2003, and 2004, CSK knew that there were
4 millions of dollars of uncollectible vendor allowance receivables recognized in its
5 financial statements. Rather than write off the uncollectible receivables, as
6 required by Generally Accepted Accounting Principles ("GAAP"), CSK engaged
7 in a scheme to hide the uncollectible receivables through various accounting
8 tricks. In addition, during fiscal year 2003, CSK over-recognized millions of
9 dollars of vendor allowances.

10 5. If CSK had written off the uncollectible vendor allowances, it would
11 have increased the company's expenses and decreased its income. Because CSK
12 concealed its uncollectible vendor allowances, CSK's required periodic reports
13 filed with the Commission failed to comply with financial reporting requirements
14 under the securities laws, misled the public about the company's financial
15 performance, and materially overstated its pre-tax income as follows: (a) by at
16 least 47%, or \$11 million, for fiscal year 2002; (b) by at least \$34 million, thereby
17 falsely reporting pre-tax income instead of an actual loss, for fiscal year 2003; and
18 (c) by at least 65%, or \$21 million, for fiscal year 2004.

19 6. As a result of CSK's fraudulent conduct and material non-
20 compliance with its financial reporting requirements under the securities laws it
21 was required to prepare not one, but two accounting restatements. CSK filed its
22 first restatement as part of its Form 10-K annual report for fiscal year 2004 (the
23 "First Restatement"), which Jenkins signed. As part of the First Restatement,
24 CSK reduced its previously recognized vendor allowances for fiscal years 2002,
25 2003, and the first three quarters of fiscal year 2004, but failed to properly account
26 for, and write-off all known, uncollectible vendor allowance receivables. The
27 First Restatement also falsely attributed the vendor allowance adjustments to mere

28 ///

1 errors in estimates and bookkeeping mistakes rather than to CSK's fraudulent
2 conduct.

3 7. After additional accounting irregularities came to light, CSK
4 announced on March 27, 2006, that it was conducting a special investigation
5 relating to, among other things, vendor allowance accounting irregularities. On
6 May 1, 2007, CSK filed its Form 10-K for fiscal year 2005 restating, for the
7 second time, its financial statements for 2002, 2003, and 2004 due, in part, to the
8 fraudulent scheme relating to CSK's failure to write off uncollectible vendor
9 allowances (the "Second Restatement"). Jenkins signed the Form 10-K for fiscal
10 year 2005.

11 8. During the 12-month periods following the issuance of CSK's 2002,
12 2003, and 2004 Forms 10-K (*i.e.*, from May 5, 2003 to May 2, 2005) Jenkins
13 received over \$2 million in compensation from CSK in the form of bonuses and
14 other incentive-based and equity-based compensation. During that same period,
15 Jenkins also realized over \$2 million in profits from the sale of CSK securities.

16 9. Jenkins is required by Section 304 of the Sarbanes-Oxley Act of
17 2002, 15 U.S.C. § 7243 (the "Act"), to reimburse CSK his bonuses and other
18 incentive-based and equity-based compensation as well as the profits he realized
19 from his sale of CSK securities during the relevant period. To date, Jenkins has
20 not complied, and has refused to comply, with the reimbursement requirements of
21 Section 304.

22 **JURISDICTION AND VENUE**

23 10. This Court has jurisdiction over this action pursuant to Section 3(b)
24 of the Act, 15 U.S.C. § 7202(b), and Sections 21(d), 21(e), and 27 of the Securities
25 Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e) & 78aa.

26 11. Venue is proper in this district pursuant to Section 27 of the
27 Exchange Act, 15 U.S.C. § 78aa, because Jenkins resides within this district and
28 certain of the transactions, acts, practices and courses of conduct constituting

1 violations of the federal securities laws alleged in this Complaint occurred within
2 this district.

3 **THE DEFENDANT**

4 12. **Maynard L. Jenkins**, age 66, is a resident of Scottsdale, Arizona
5 and served as CSK's chief executive officer and chairman of the board from
6 January 1997 until his retirement in August 2007.

7 **RELATED PARTIES**

8 13. **CSK** was a Delaware corporation with its principal executive offices
9 in Phoenix, Arizona. CSK became a publicly traded company in March 1999, and
10 its common stock was registered with the Commission pursuant to Section 12(b)
11 of the Exchange Act and listed on the New York Stock Exchange. As of January
12 30, 2005, it operated 1,134 stores in nineteen states under three brand names:
13 Checker Auto Parts, Schucks Auto Supply, and Kragen Auto Parts. In 2008, after
14 the conduct at issue, CSK became a wholly-owned subsidiary of O'Reilly
15 Automotive, Inc.

16 14. Based on the underlying fraudulent conduct summarized herein, on
17 May 26, 2009, the Commission instituted settled cease-and-desist proceedings
18 against CSK that found that CSK, which neither admitted nor denied the
19 Commission's findings, had violated Section 17(a) of the Securities Act of 1933,
20 15 U.S.C. § 77q(a), and Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the
21 Exchange Act, 15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) & 78m(b)(2)(B), and
22 Rules 10b-5, 12b-20, and 13a-1 thereunder, 17 C.F.R. §§ 240.10b-5, 240.12b-20
23 & 240.13a-1. Among other things, the Commission ordered CSK to cease and
24 desist from committing or causing any violations and any future violations of
25 those provisions.

26 15. **Martin G. Fraser** was CSK's chief operating officer and president
27 from 2000 until September 2006, when he resigned at CSK's request. On March
28 12, 2009, the Commission filed its first amended complaint in the District of

1 Arizona against Fraser, alleging, among other things, that by participating in the
2 underlying fraudulent conduct summarized herein, Fraser had violated Section
3 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a), and Sections 10(b), 13(a),
4 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78m(a),
5 78m(b)(2)(A) & 78m(b)(2)(B), and Rules 10b-5, 12b-20, and 13a-1 thereunder, 17
6 C.F.R. §§ 240.10b-5, 240.12b-20 & 240.13a-1. *SEC v Fraser, et al*, CV 090443-
7 PHX-GMS. In addition, based on the underlying fraudulent conduct, the U.S.
8 Department of Justice named Fraser as a defendant in a 31-count indictment, filed
9 on April 7, 2009, in the District of Arizona. *United States v. Fraser, et al.*, CR 09-
10 372 PHX SRB LOA.

11 16. **Don W. Watson** was CSK’s chief financial officer, senior vice
12 president, and treasurer from January 1998 to September 2005. Watson served as
13 CSK’s chief administrative officer and senior vice president from September 2005
14 to his termination in October 2006. Watson is also named as a defendant in the
15 Commission’s March 12 action and in the Department of Justice’s indictment.

16 17. **Edward W. O’Brien** was CSK’s controller and vice president from
17 March 2003 until his termination in September 2006. O’Brien is also named as a
18 defendant in the Commission’s March 12 action. On April 7, 2009, O’Brien pled
19 guilty to obstruction of justice, in connection with the investigation conducted by
20 the U.S. Department of Justice of the underlying fraudulent conduct.

21 18. **Gary M. Opper** was CSK’s director of credit and receivables,
22 reporting to O’Brien, from March 17, 2003 until he was terminated in September
23 2006. Opper is also named as a defendant in the Commission’s March 12 action.
24 On April 15, 2009, Opper pled guilty to obstruction of justice, in connection with
25 the investigation conducted by the U.S. Department of Justice.

26 ///

27 ///

28 ///

1 **BACKGROUND: CSK’S “LET’S WORK TOGETHER” PROGRAM**

2 19. Although CSK had various vendor allowance programs, its largest
3 was its “Let’s Work Together” program (“LWT”). Typically, LWT agreements
4 covered a one-year period, which CSK referred to as the “program year.”

5 Although the LWT agreements varied, CSK generally earned LWT allowances at
6 a set dollar amount, as a percentage of the amount CSK spent to purchase the
7 vendor’s product, or as a certain number of cents per item CSK purchased from
8 the vendor.

9 20. CSK recognized LWT allowances ratably, on a monthly basis, based
10 on its estimate of the total allowances it expected to earn for the entire program
11 year. In theory, CSK’s estimate was based on the LWT agreements and CSK’s
12 expected purchases from its vendors. As CSK recognized LWT allowances for a
13 given program year, it increased the LWT account receivable for that program
14 year. Each LWT program year had its own account receivable. As CSK collected
15 LWT allowances for a particular program year, GAAP required that CSK reduce
16 the outstanding receivable for that same LWT program year.

17 **SUMMARY OF CSK’S FRAUDULENT SCHEME**

18 **I. **The Fraudulent Scheme To Avoid Vendor Allowance Write Offs.****

19 21. During fiscal years 2002, 2003, and 2004, CSK was unable to collect
20 all of the vendor allowances it had recognized. As a result, large accounts
21 receivable built up for each LWT program year.

22 22. GAAP required that CSK write off the uncollectible LWT accounts
23 receivable. Specifically, under Statement of Financial Accounting Standards No.
24 5 (“SFAS No. 5”), Accounting for Contingencies, Paragraph 8, an estimated loss
25 from a loss contingency shall be accrued by a charge to income if: (a) information
26 available prior to issuance of the financial statements indicates that it is probable
27 that an asset had been impaired at the date of the financial statements; and (b) the
28 amount of the loss can be reasonably estimated. SFAS No. 5, Paragraph 3 defines

1 “probable” to mean that the future event or events are likely to occur. SFAS No.
2 5, Paragraph 4 states that examples of loss contingencies include collectibility of
3 receivables. A write-off of the uncollectible LWT allowance receivables would
4 have increased CSK’s expenses during the fiscal year the write off was made,
5 resulting in a decrease in pre-tax income.

6 23. Instead of writing off CSK’s uncollectible LWT accounts receivable
7 and taking the requisite reduction to pre-tax income, CSK concealed its
8 uncollectible LWT accounts receivable by: (a) applying millions of dollars of
9 LWT allowances earned and collected for later LWT program years to prior LWT
10 program year accounts receivable (referred to within CSK as “filling the bucket”);
11 and (b) incorrectly accounting for millions of dollars of LWT allowances it paid
12 back to vendors. Through this scheme, CSK avoided writing off tens of millions
13 of dollars in uncollectible LWT receivables, which it had previously recognized.

14 24. CSK “filled the bucket” by taking LWT allowances collected for
15 later program years and applying them to reduce an earlier LWT program year’s
16 account receivable. Specifically, CSK: (a) made baseless journal entries reducing
17 the account receivable for a prior LWT program year with an offsetting increase to
18 the account receivable for a later LWT program year; and (b) applied LWT
19 allowance collections for a later LWT program year to an earlier program year’s
20 LWT account receivable.

21 25. CSK also failed to write off LWT allowances it had over-collected
22 for prior LWT program years and ultimately paid back to its vendors. Instead of
23 writing off amounts CSK paid back, which would have reduced its pre-tax income,
24 CSK increased a later LWT program year’s account receivable, making it appear
25 that it had collected an older account receivable when all CSK had done was move
26 the outstanding receivable balance to a more recent year. This accounting
27 treatment was contrary to GAAP because, by paying an amount back to a vendor

28 ///

1 for a prior LWT program year, CSK acknowledged its uncollectibility and should
2 have written off the amount.

3 **A. Fiscal Year 2002**

4 26. During its 2002 fiscal year, CSK failed to write off approximately \$11
5 million of uncollectible vendor allowances it had recognized in previous years, most
6 significantly as part of the 2001 LWT program year. Instead of writing off the
7 uncollectible vendor allowances, CSK: (a) made improper journal entries moving
8 approximately \$6 million of collections for the 2002 LWT program to the 2001 LWT
9 account receivable; (b) misapplied paybacks of approximately \$3 million to the 2002
10 LWT receivable; and (c) reached an agreement whereby a vendor agreed to accept an
11 invalid \$2 million debit memo for the 2001 LWT program year in exchange for CSK
12 not collecting \$2 million in allowances earned as part of the 2002 and 2003 LWT
13 program years. As a result, in its Form 10-K filed on May 5, 2003, CSK materially
14 overstated its pre-tax income by approximately \$11 million, or 47%. At the time of
15 that filing, CSK knew, or was reckless in not knowing, that it had failed to write off
16 uncollectible vendor allowances and over recognized allowances, and that, as a result,
17 CSK's financial statements were materially misstated.

18 **B. Fiscal Year 2003**

19 27. During its 2003 fiscal year, CSK failed to write off approximately \$24
20 million in uncollectible vendor allowances recognized during previous LWT
21 program years, primarily as part of the 2002 LWT program year. Moreover, CSK
22 improperly and prematurely recognized \$6 million in vendor allowances and
23 improperly recognized an additional \$4 million of LWT allowances. As a result, in
24 its Form 10-K filed on April 15, 2004, CSK overstated its 2003 pre-tax income by
25 approximately \$34 million, turning its actual pre-tax loss of approximately \$18
26 million into purported pre-tax income of \$16 million. At the time of that filing,
27 CSK knew, or was reckless in not knowing, that it had failed to write off

28 ///

1 uncollectible vendor allowances and over recognized allowances, and that, as a
2 result, CSK's financial statements were materially misstated.

3 28. During fiscal year 2003, CSK hid approximately \$24 million in
4 uncollectible vendor allowance receivables. First, CSK applied about \$10 million
5 in 2003 LWT program year collections to the 2002 LWT program year receivable.
6 Second, CSK failed to write off approximately \$5 million in vendor allowances
7 CSK had over-collected during prior LWT program years but had to pay back
8 during fiscal year 2003. Third, CSK made a baseless journal entry decreasing the
9 2002 LWT receivable by \$9 million and increasing the 2003 LWT receivable by
10 the same amount, which reduced the 2002 LWT receivable to zero.

11 29. During the fourth quarter of 2003, CSK prematurely recognized
12 approximately \$6 million in additional vendor allowances. CSK did this by
13 having vendors sign agreements making it appear that CSK had earned additional
14 LWT allowances during 2003, when, in fact, those allowances would be earned, if
15 at all, based on purchases made during 2004.

16 30. At the end of fiscal 2003, CSK obtained approximately \$4 million of
17 additional warranty allowances from two vendors. At that same time, CSK had a
18 warranty deficit of approximately \$13 million, which represented returns from
19 customers covered by warranties in excess of the warranty accrual recorded by
20 CSK. Under GAAP, a warranty deficit should be written off unless additional
21 warranty allowances are obtained to cover the deficit. However, instead of
22 applying the \$4 million of additional warranty allowances to offset a portion of its
23 warranty deficit balance, CSK improperly recognized those warranty allowances
24 as additional LWT allowances.

25 **C. Fiscal Year 2004**

26 31. During fiscal year 2004, CSK failed to write off known,
27 uncollectible vendor allowances totaling approximately \$21 million. Specifically,
28 CSK: (a) applied approximately \$11 million in 2004 LWT program year

1 collections to the 2003 LWT account receivable; (b) increased the 2004 LWT
2 receivable by approximately \$4 million to avoid writing off amounts CSK paid
3 back to vendors for the 2003 and 2002 LWT program years; and (c) moved
4 approximately \$6 million via baseless journal entries to the 2003 LWT receivable
5 from other vendor allowance receivables in other time periods. As a result, in its
6 Form 10-K filed on May 2, 2005, CSK overstated pre-tax income for fiscal year
7 2004 by approximately 65%, or \$21 million. At the time of that filing, CSK knew,
8 or was reckless in not knowing, that it had failed to write off uncollectible vendor
9 allowances and that, as a result, the company's financial statements were
10 materially misstated.

11 **II. As A Result Of Its Fraud, CSK's Forms 10-K For Fiscal Years 2002, 2003,**
12 **And 2004 Were In Material Non-Compliance With Financial Reporting**
13 **Requirements Under The Securities Laws.**

14 32. As required by Section 13(a) of the Exchange Act and Rule 13a-1
15 thereunder, CSK filed annual reports on Forms 10-K for fiscal years 2002, 2003,
16 and 2004. Jenkins signed each of those annual reports and their accompanying
17 Sarbanes-Oxley certifications.

18 33. The notes to the financial statements included with CSK's Forms 10-
19 K for fiscal years 2002, 2003, and 2004 falsely stated that "[s]pecific accounts are
20 written off against the allowance when management determines the account is
21 uncollectible." CSK did not write off known, uncollectible vendor allowance
22 receivables, but rather engaged in a scheme to avoid and hide such write offs, as
23 follows:

24 ///

25 ///

26 ///

27 ///

28 ///

	In all, CSK materially understated its costs of goods sold during fiscal years 2002 through 2004 as follows: FY	Concealed Receivables From Prior Years			Over Recognized Allowances / Other Uncollectible Receivables	Total
		Unsupported Journal Entries	Misapplied Debit Memos	Misapplied Paybacks		
2002	\$6 M	--	\$3 M	\$2 M	\$11 M	
2003	\$9 M	\$10 M	\$5 M	\$10 M	\$34 M	
2004	\$6 M	\$11 M	\$4 M	--	\$21 M	

34. CSK's Forms 10-K for fiscal years 2002, 2003 and 2004 overstated CSK's pre-tax income by approximately \$11 million (or 47%), \$34 million (thereby reporting pre-tax income instead of a pre-tax loss) and about \$21 million (or 65%), respectively. When CSK filed those Forms 10-K, CSK knew, or was reckless in not knowing, that the company's financial statements contained therein was materially misstated.

35. As set forth above, the financial statements in those annual reports failed to comply with GAAP, namely, EITF No. 02-16 and FAS No. 5. Regulation S-X states that financial statements filed with the Commission that are not prepared in accordance with GAAP are presumed to be inaccurate and misleading. 17 C.F.R. §210.4-01(a)(1). By virtue of its conduct alleged above, CSK violated the anti-fraud provisions of the securities laws, namely, Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; the reporting requirements of the securities laws, namely, Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder; the books and records provisions of the securities laws, namely, Section 13(b)(2)(A) of the Exchange Act; and the internal controls provisions of the securities laws, namely, Section 13(b)(2)(B) of the Exchange Act.

1 **III. CSK Was Required to Prepare Two Accounting Restatements.**

2 36. As set forth above, CSK, filed annual reports in its Forms 10-K for
3 fiscal years 2002, 2003 and 2004 that failed to comply with GAAP and the
4 financial reporting requirements under the securities laws.

5 37. Due to CSK's material non-compliance with financial reporting
6 requirements under the securities laws, which were the result of CSK's fraudulent
7 conduct as set forth above, CSK was required by GAAP and the federal securities
8 laws to prepare an accounting restatement. Specifically, an accounting
9 restatement was required by, among other things, (a) Paragraph 13 of Accounting
10 Principles Board ("APB") Opinion No. 20, Accounting Changes, which states that
11 "[e]rrors in financial statements result from mathematical mistakes, mistakes in
12 the application of accounting principles, or oversight or misuse of facts that
13 existed at the time the financial statements were presented;" (b) Paragraph 36 of
14 APB Opinion No. 20 which states that the correction of such errors "should be
15 reported as a prior period adjustment;" and (c) paragraph 18 of APB Opinion No.
16 9, Reporting the Results of Operations, which states that "when comparative
17 statements are presented, prior period adjustments should be made of the amounts
18 of net income (and the components thereof) and retained earnings balances (as
19 well as of other affected balances) for all of the periods reported therein, to reflect
20 the retroactive application of these prior period adjustments." In addition,
21 Paragraph 25 of Statement of Financial Accounting Standards 154, Accounting
22 Changes and Error Corrections, a replacement of APB Opinion 20 and FASB
23 Statement 3, states that "[a]ny error in the financial statements of a prior period
24 discovered subsequent to their issuance should be reported as a prior period
25 adjustment by restating the prior period financial statements."

26 38. In fact, CSK issued two restatements in connection with its vendor
27 allowance accounting. CSK's Form 10-K for fiscal year 2004 included CSK's
28 First Restatement, which partially restated CSK's vendor allowances recognized

1 during prior years. CSK partially restated its vendor allowances because it could
2 not collect all of the 2003 LWT receivable. In addition, CSK restated for vendor
3 allowances paid back during fiscal year 2003 that CSK failed to properly write off
4 during the 2003 fiscal year. CSK's First Restatement regarding vendor allowances
5 resulted in CSK adjusting its costs of sales upward and its pre-tax income
6 downward, for the first three quarters of 2004, and the 2003, 2002, and 2001 fiscal
7 years by \$1.9 million, \$7.1 million, \$9.0 million, and \$0.5 million, respectively.

8 39. CSK's First Restatement, however, failed to: (a) write off all known,
9 uncollectible vendor allowance receivables; (b) disclose the full extent of CSK's
10 efforts to hide the uncollectible receivables from its independent auditors; and (c)
11 disclose CSK's over recognition of vendor allowances during fiscal 2003. It also
12 falsely attributed the vendor allowance restatement to mere "errors in estimation in
13 earlier periods" and "vendor allowances recorded in improper periods" due to
14 "imprecise estimates, bookkeeping errors and recording allowances in the
15 incorrect periods." CSK knew, or was reckless in not knowing, about the false
16 disclosures and misstatements contained in its First Restatement.

17 40. CSK issued its First Restatement as part of its annual report for
18 fiscal year 2004. Thereafter, CSK's internal audit department, which in the wake
19 of the First Restatement scrutinized CSK's vendor allowances more carefully,
20 discovered additional irregularities that led to a special investigation, which CSK
21 publicly announced on March 27, 2006. On September 28, 2006, CSK
22 announced, among other things, that: (a) it had substantially completed its special
23 investigation; (b) it no longer employed Watson, its former chief financial officer,
24 and Fraser, its former chief operating officer and president; and (c) that Jenkins
25 would soon be retiring and would assist CSK in its search for a new CEO. As a
26 result of its special investigation, CSK terminated the employment of O'Brien, its
27 controller, and Opper, its director of credits and receivables.

28 ///

1 44. CSK, by engaging in the conduct described above, filed Forms 10-K
2 for fiscal years 2002, 2003, and 2004 that were in material non-compliance with
3 financial reporting requirements under the securities laws.

4 45. CSK's material non-compliance with its financial reporting
5 requirements under the securities laws was the result of its misconduct that was
6 designed to inflate its income fraudulently by prematurely recognizing vendor
7 allowances and failing to write off known, uncollectible vendor allowances in
8 violation of GAAP.

9 46. Due to CSK's material non-compliance with its financial reporting
10 requirements under securities laws, and as a result of its misconduct, CSK was
11 required to prepare an accounting restatement for fiscal years 2002, 2003 and
12 2004.

13 47. The Commission has not exempted Jenkins, pursuant to Section
14 304(b) of the Act, 15 U.S.C. § 7243(b), from the application of Section 304(a) of
15 the Act, 15 U.S.C. § 7243(a).

16 48. By engaging in the conduct described above, Jenkins violated, and
17 unless ordered to comply will continue to violate, Section 304(a) of the Act, 15
18 U.S.C. § 7243(a).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the Commission respectfully requests that the Court:

21 **I.**

22 Issue findings of fact and conclusions of law that Jenkins committed the
23 alleged violations.

24 **II.**

25 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), ordering
26 Jenkins to reimburse CSK for his bonuses and other incentive-based and equity-
27 based compensation, and profits from CSK stock sales, pursuant to Section 304 of
28 the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7243.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

IV.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: July 22, 2009

Respectfully submitted,

s/ Robert H. Conrad
ROBERT H. CONRRAD
Attorney for Plaintiff
Securities and Exchange Commission