THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Securities and Exchange Commission,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Civil Action No.:**
	)	
Bernard Cole, William Hennessy,	)	
Douglas Hodge and Robert Steimle,	)	
	)	
Defendants.	)	

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission ("the Commission"), for its Complaint, alleges as follows:

SUMMARY

1. This case involves fraudulent accounting practices at the Dana Corporation ("Dana"), an auto-parts supplier located in Toledo, Ohio. During 2004 and the first half of 2005, Dana failed to comply with Generally Accepted Accounting Principles ("GAAP") by improperly recognizing revenue or income on a number of transactions, and by delaying the recording of expenses on several others. Dana also made materially false statements regarding its earnings and finances in filings with the Commission for the fiscal year 2004 and the first two quarters of 2005. During this period of time, Dana materially overstated its earnings before interest and taxes ("EBIT") by a total of $88 million, or 73.9%.

2. Dana's inflated earnings were caused, in part, by the actions of Bernard Cole, William Hennessy, Douglas Hodge and Robert Steimle (collectively, "the Defendants"), who attempted to improve the financial results at Commercial Vehicle Systems ("CVS"), a subdivision of one of Dana's two main business units, the Heavy Vehicle Technologies and Systems Group

("HVTSG"). At the time, Cole was the President of HVTSG; Hennessy was the Vice-President of North and South America of HVTSG and CVS' General Manager; Hodge was the Vice-President and Group Controller of HVTSG; and, Steimle was the Controller for CVS.

3. The fraudulent accounting practices at Dana involved: (1) the recognition of income from sales on transactions where neither the assets nor the risk of loss actually were transferred; (2) the recognition of revenue from price increases which were never agreed upon by customers and, in some cases, were disputed; (3) the deferral of expenses from steel surcharges actually incurred by the Company; and (4) other improper accounting entries, including the reduction of debts which Dana owed to suppliers without any contractual basis or support and over the objections of its suppliers.

4. These fraudulent accounting practices caused Dana to overstate its EBIT by $31.6 million, or 26.5%. Dana's financial statements from 2004 through the first two quarters of 2005 also contained extensive accounting errors amounting to $56.4 million.[1]

5. Dana's Audit Committee discovered the accounting fraud in September 2005 and disclosed the Company's accounting misstatements to the public in September and October 2005. In response, Dana's stock price dropped from $12.78 to $6.04 per share, or 52.7%, resulting in a loss of $1 billion in market capitalization. In December 2005, Dana restated its financial statements for 2004 and the first two quarters of 2005.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77v(a)], and Sections 21(d), 21(e) and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d)-(e),

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[1] The Commission has filed a separate administrative proceeding against Dana in connection with these accounting errors, in which the company has agreed to the entry of a Cease and Desist order.

78aa]. The Defendants have, directly or indirectly, made use of the means and instrumentalities of interstate commerce, or the mails, or of the facilities of a national securities exchange in connection with the acts, practices and courses of business alleged in this complaint.

7. This is an appropriate venue under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. All of the transactions, acts, practices and courses of business constituting the violations alleged herein occurred within the Northern District of Ohio, and one of the four Defendants currently resides here.

THE DEFENDANTS

8. Bernard N. Cole, age 67, resides in Bonita Springs, Florida. Cole was an employee of Dana for 37 years and served as the President of HVTSG for approximately five years until his retirement in December 2005.

9. William E. Hennessy, age 61, resides in Toledo, Ohio. At the end of November 2004, Hennessy became the Vice-President of North and South America of HVTSG and General Manager of CVS. Before that, he was the Director of Global Manufacturing at HVTSG and the Vice-President of Global Manufacturing. Hennessy had been an employee of Dana for 28 years before his employment with Dana was terminated in August 2005.

10. Douglas W. Hodge, age 55, resides in Ringwood, Illinois. Hodge was an employee of Dana for 28 years. Hodge was the Vice-President and Group Controller for HVTSG from January 2002 to December 2005, when he retired from the company.

11. Robert E. Steimle, age 58, resides in Portage, Michigan. Steimle was an employee of Dana for 28 years. He was the Controller for CVS from 1997 until his employment was terminated in August 2005.

ENTITY INVOLVED

12. Dana, a Virginia corporation headquartered in Toledo, Ohio, manufactures and supplies parts and systems to vehicle manufacturers world-wide. During 2004, Dana operated approximately 168 major facilities worldwide and employed approximately 44,000 workers. During that same period, Dana's annual sales were approximately $9 billion, and it earned $62 million in net income. Prior to March 3, 2006, Dana's shares were registered under Section 12(b) of the Exchange Act and traded on the New York Stock Exchange.

13. On March 3, 2006, Dana filed a voluntary petition for reorganization relief under Chapter 11 of the U.S. Bankruptcy Code and trading in Dana's shares was suspended. In April of 2006, Dana's stock was de-listed from the New York Stock Exchange. At that time, Dana's common stock was deemed registered under Section 12(g) of the Exchange Act and traded on the Over-the-Counter Bulletin Board.[2]

FACTS

14. Dana specializes in manufacturing and supplying automotive-related systems and components to vehicle manufacturers world-wide. During 2004 and the first two quarters of 2005, Dana consisted of two main business units: HVTSG and the Automotive Systems Group. HVTSG was comprised of two financial reporting divisions: CVS and Off-Highway. CVS produces and sells automotive components and systems for medium-duty and heavy-duty trucks.

15. In 2004 and 2005, Dana was attempting to reduce its production expenses and manage the rising costs of steel while the company faced significant pressure to achieve higher earnings. Under Dana's financial reporting structure, controllers reported directly to the President or General Manager of their business unit or division. Steimle prepared the financial reports for

[2] On February 1, 2008, Dana emerged from Chapter 11 as Dana Holding Corporation, and its common stock was again registered under Section 12(b) of the Exchange Act and resumed trading on the New York Stock Exchange.

CVS and, at the end of November 2004, reported directly to Hennessy. Hodge consolidated financial results of HVTSG, and reported to Cole.

The Scheme to Overstate Earnings at CVS

16. As CVS' General Manager, Hennessy instructed certain plant managers and controllers to record improper accounting entries. At various times, Hennessy even required these employees to show a profit after their books were closed and plant personnel stated that no more income could be found. Hennessy and Hodge repeatedly directed Steimle to improperly record income or defer expenses even though Steimle expressed concerns about the propriety of the accounting treatment for a number of these entries. In addition, Steimle directed his accounting staff to make improper accounting entries even though he knew that those entries did not comply with Dana's accounting policies or with GAAP. Finally, Cole was aware that CVS had accrued income from certain proposed price increases before those increases were accepted by customers.

17. The improper accounting practices directed by Hennessy, Hodge and Steimle did not comply with the requirements of GAAP for recognizing revenue, income or expenses. Hennessy, Hodge and Steimle either knew or were reckless in not knowing, and Cole was reckless in not knowing, that their actions were improper.

18. Cole, Hennessy, Hodge and Steimle were each responsible for the accuracy of the financial statements of their business unit or division. Each of the Defendants signed quarterly and year-end representations required by Dana stating that the financial results of CVS was accurate and made in accordance with GAAP. Defendants' annual filings specifically attested that they had "reviewed the criteria for revenue recognition" including "collectability, delivery, evidence of arrangement and fixed prices" and that they were only recognizing revenue in accordance with GAAP. However, these statements were false.

19. The misstatements in CVS' financial results were incorporated into the financial statements for HTSVG and Dana. These results were then filed with the Commission and disclosed to the public in Dana's annual reports (Form 10-K), quarterly reports (Form 10-Q), and other documents (Forms 8-K and S-4) during 2004 and through the second quarter of 2005. As shown below, Defendants caused Dana to overstate its EBIT by approximately $31.6 million or 26.5%. The fraudulent accounting entries also overstated HVTSG's EBIT by 14%.

(All dollar amounts in millions)	Yr. Ended 2004	Qtr. Ended 3/31/05	Qtr. Ended 6/30/05	Total
Dana Restated EBIT	$33.0	$24.0	$62.0	$119.0
HVSTG Restated EBIT	$161.0	$31.0	$33.0	$225.0
EBIT Overstatement Due to Accounting Fraud	$10.7	$9.1	$11.8	$31.6
Overstatement as % of Dana's Restated EBIT	32.4%	37.8%	19%	26.5%
Overstatement as % of HVSTG Restated EBIT	6.6%	29.3%	35.8%	14.0%

Overstating Income on "One-Off" Transactions

20. In 2004, Hennessy negotiated several transactions with a Kentucky supplier of various automotive parts to Dana, which were referred to as "one-off" deals. These deals contemplated the sale of certain of Dana's assets to this same supplier as part of future outsourcing of the production of certain parts. As described below, CVS improperly recognized income for these transactions.

(a) "Sales" of Spare Parts: At the end of March 2004, Steimle signed an agreement pursuant to which Dana would sell certain spare parts to the Kentucky supplier.

However, some of the spare parts which were "sold" to this supplier were intended to be used with equipment that the supplier did not yet own, but was to be acquired from Dana in the future. The agreement specifically provided that the spare parts would remain at Dana's facilities pending the transfer of equipment to this supplier, and that Dana would insure and assume the risk of loss while the parts remained at Dana's facilities. In addition, the agreement required Dana to repurchase some or all of the spare parts "sold" to this supplier. These provisions made it improper for CVS to record any income from this transaction under GAAP. However, Hennessy, Hodge and Steimle all agreed to book this transaction as a sale without establishing any reserve. By recording the entire payment from this supplier as income, Dana overstated its EBIT in the first quarter of 2004 by $573,000.

(b) Sale and Partial Leaseback of the Toluca Plant: In the second quarter of 2004, Hennessy negotiated the sale and partial leaseback of Dana's plant located in Toluca, Mexico with this same supplier. The contract documents were signed in June and August 2004. CVS received a $5 million premium in connection with this transaction. Under GAAP, any profits from the sale/leaseback portion of the transaction should have been deferred and amortized over the life of the agreement. However, Hennessy, Hodge and Steimle all agreed that CVS would book the entire $5 million from this supplier as income in the second quarter. Consequently, Dana overstated its EBIT in the second quarter of 2004 by $2.8 million.

(c) Payments to Purchase Equipment That Was Never Delivered: At the end of September and December of 2004, Hennessy signed agreements to sell forming and seam welding equipment to this same supplier in exchange for payments totaling

$3.3 million. This equipment belonged to Dana and was being used to manufacture the Company's own products, and the written agreements with the supplier specified that if Dana failed to sell or deliver the equipment, Dana was liable to return the upfront payments. Under GAAP, income from an upfront payment should be deferred if the goods, assets, or services contracted for have not been delivered. Hennessy, Hodge and Steimle knew that this equipment had not been delivered to this supplier but agreed to treat the supplier's payments as income anyway. As a result, Dana overstated its EBIT by $2.8 million in the third quarter and by $500,000 in the fourth quarter of 2004.

The Improper Use of "Debit Memos"

21. From late 2004 through the first quarter of 2005, Hennessy and Steimle caused CVS to improperly enhance its profits by issuing invoices called "debit memos" to Company suppliers. These debit memos had no contractual basis, and unilaterally requested Dana's suppliers to reduce an outstanding payable amount (and a corresponding Company expense). Some suppliers complied with Dana's requests, but others did not. However, even for those debit memos which were disputed, Dana reduced its obligation to pay these liabilities or improperly recorded an increase in its receivables. As described below, Dana overstated its EBIT by $3.9 million from the last quarter of 2004 through 2005.

(a) The "Loan" from a Supplier: At the end of 2004, Steimle directed CVS personnel to reduce expenses by $750,000 and send debit memos to an Ohio supplier. The first memo, in the amount of $500,000, was sent on December 20, 2004 and claimed that this supplier had missed a scheduled October 2004 start date for the production of parts, forcing CVS to buy the parts elsewhere at a higher price.

However, the supply agreement executed between Dana and this supplier contained a start date of November 1, 2004. The second memo, for an additional $250,000, was sent on January 6, 2005. Dana had no contractual basis to issue either of these debit memos to this supplier, or to reduce its expenses. In addition, this supplier disputed the claim that it had any obligation to reduce CVS' outstanding payable amount. This supplier eventually agreed to accept the $750,000 debit memos, after Steimle agreed that CVS would repay that same amount in five monthly installments beginning in March 2005. Essentially, this transaction was loan to CVS from a supplier. As agreed, this supplier paid CVS $750,000, and then sent monthly invoices to Dana in the amount of $150,000 for purported monthly surcharges, which CVS paid and booked as expenses. As a result, Steimle caused Dana to understate its expenses by $500,000 in the fourth quarter of 2004, and by $250,000 in the first quarter of 2005.

(b) The Disputed Debit Memos: At the end of 2004 and the first two quarters of 2005, Hennessy and Steimle directed several CVS plants to issue a total of $3.3 million of debit memos to the previously mentioned Kentucky supplier. At the end of December 2004, Steimle authorized a $320,000 debit memo for severance payments that CVS paid after this supplier purchased one of Dana's plants. Hennessy, Hodge and Steimle were aware that this claim was disputed, and CVS ultimately acknowledged that the supplier did not owe this money. Second, in December 2004 and January 2005, CVS issued additional debit memos to this same supplier totaling $701,000, which claimed that CVS incurred overtime and fringe benefit costs for untimely deliveries and delivery shortages. Hennessy and Steimle

both were aware that the supplier disputed these claims, and the contract between Dana and this supplier did not allow Dana to recover such costs. Third, on December 31, 2004, Hennessy and Steimle caused CVS to issue a debit memo to this same supplier in the amount of $1.6 million for purported overcharges on axle shafts. However, the supply contract between Dana and this supplier required Dana to pay that price for these axle shafts. On April 12, 2005, CVS cancelled the $1.6 million debit and paid the supplier $1.6 million. Approximately two weeks later, Hennessy and Steimle caused CVS to record a $2.3 million deferred receivable. This receivable included the original $1.6 million axle shaft claim from December 2004, and two additional claims related to an axle shaft overcharge in the amounts of $390,000 for the first quarter of 2005 and $310,000 for the second quarter of 2005. Consequently, Dana's expenses were understated by $2.7 million in the fourth quarter of 2004 and $930,000 in the first quarter of 2005.

Deferring the Impact of the Increased Cost of Steel

22. One of the reasons CVS had difficulties meeting its earning targets during 2004 and early 2005 was because the price of steel used in its products increased dramatically. Although Dana's suppliers could pass steel surcharges along to CVS, Dana's agreements with its customers only provided for price increases once a year. In response, Hennessy, Hodge and Steimle caused CVS to take deceptive actions in order to decrease the true financial impact of increased costs of steel on the Company's earnings. First, Hennessy, Steimle and Hodge directed CVS to improperly delay the recognition of expenses for valid steel surcharges. Second, Hennessy and Steimle with knowledge of Hodge and Cole, caused CVS to recognize revenue for price increases on Company products without a contractual basis or the agreement of its customers.

Delaying the Recognition of Steel Surcharges:

23. In 2004 and 2005, Dana's steel suppliers typically passed along increased costs of steel to the Company in surcharges contained in separate invoices. During that time, Hennessy and Steimle improperly delayed recognizing the expenses from these surcharges during the appropriate accounting period by: (1) instructing the purchasing department to ask the Company's steel suppliers to delay sending the surcharge invoices; (2) rejecting valid steel surcharge invoices in order to avoid recording those expenses; and (3) expensing the "base" cost of steel at the time of the receipt, but delaying the recognition of the steel surcharge costs for up to three to four months. These practices were not in accordance with GAAP because expenses were not recorded as they actually were incurred. As a result, Dana's expenses were understated significantly, and the Company's EBIT was overstated by $350,000 in 2004, by $2.8 million in the first quarter of 2005 and by $4 million in the second quarter of 2005. For example:

(a) A Kentucky supplier sent CVS invoices for steel surcharges totaling approximately $2.6 million which were dated April 30, 2004 through February 2, 2005. Steimle was informed about the receipt of these invoices, but directed the purchasing department to send the invoices back to the supplier. These invoices were not expensed. Hennessy received correspondence from this supplier informing him that CVS had not paid the surcharge invoices. In addition, this supplier rejected a request from HVTSG's purchasing group to change the date on the surcharge invoices. Steimle knew that it was improper to ask this supplier to change the invoice dates, and Hennessy became aware of that fact. CVS ultimately agreed to pay the surcharge invoices in March 2005.

(b) Beginning in late 2004 and continuing through 2005, Hodge and Hennessy instructed Steimle to record the base cost of steel as an expense at the time that the steel was received, but to delay recognition of the steel surcharge costs for three or four months. Steimle objected that this was improper accounting, but ultimately followed their instructions. Hennessy and Steimle prepared a January 2005 monthly report which stated that CVS had "delayed over $3.1 [million profit after tax] of steel and other material variances" from the fourth quarter of 2004 to the first quarter of 2005.

Improper Revenue Recognition for Customer Price Increases

24. Beginning in the first quarter of 2005, Hennessy and Steimle, with the knowledge of Hodge and Cole, improperly boosted CVS' earnings by recognizing income from unilateral price increases for parts sold to two of its most significant customers. Both customers purchased truck axles from Dana, among other things. Dana began accruing revenue for anticipated price increases on these truck axles while the Company was still negotiating the price increases with these customers. No written agreement for these price increases was ever finalized, and no invoices for the amounts accrued were sent to either of these customers. Under GAAP, the recognition of revenue for a price increase requires that persuasive evidence of an arrangement exists and that collectability be reasonably assured. As a result, Dana overstated EBIT by a total of $2 million in the first quarter of 2005, and by $8.6 million in the second quarter of 2005.

(a) The First Customer: DANA signed a long-term supply agreement with the first customer in July 2000 which provided for an annual price adjustment in the event of price increases or decreases for raw materials. Beginning the fall of 2004, as the cost of steel rose, Cole decided to seek relief from this customer by requesting that

the price adjustment, which would normally be implemented in the month of July, be moved up to February 2005. No written agreement for the price increases sought by Dana was ever finalized. Nor were any invoices or amended price lists ever sent to this customer which reflected the requested price increases. Cole received emails and other correspondence during the second quarter of 2005 which indicated that Dana and the first customer were still negotiating the requested price increases. In addition, Steimle advised Hennessy and Hodge that there still was no written agreement for the price increases between Dana and the customer. However, all of the Defendants knew that CVS had recognized and accrued revenue for the requested price increases from March 2005 through July 2005. Although Steimle expressed concern about the propriety of these price increases, he and Hennessy still directed plant controllers to accrue for price increases from the first customer because such an agreement was "on the table." As a result of these improper price accruals, Dana's revenue was overstated by $1.4 million in the first quarter of 2005, and by $7.3 million in the second quarter of 2005.

(b) The Second Customer: Dana had contracts with the second customer which granted it the right to increase the prices for parts sold based on various steel indices. The contracts simply required that the parties come to an agreement on which steel indices to use each year. However, in 2004, CVS began to recognize and accrue revenue for price increases before reaching an agreement with this second customer. Although Dana was negotiating a retroactive price increase with this customer for the first two quarters of 2005, the parties had not reached an agreement regarding the percentage increase. Hennessy and Hodge received notice

of this fact in writing, but directed Steimle to record income for these potential price increases anyway. CVS did not send this second customer any invoices reflecting any of the price increases it already had accrued on the parts sold before July, 2005. As a result, Dana overstated its revenue by $606,000 for the first quarter of 2005, and by $1.3 million for the second quarter of 2005.

Other Improper Accounting Entries

25. From late 2003 through the second quarter of 2005, Steimle directed a number of other improper accounting entries, either on his own initiative or as instructed by Hennessy or Hodge, in order to enhance CVS' financial results after its books were closed. For example:

The Forging Supplier

(a) In the last half of 2003, Steimle and other employees of Dana's purchasing department participated in negotiations with a forging supplier located in India, to restructure a supply agreement signed in 2001. The intent of restructuring the supply agreement was to improve CVS' profits in the fourth quarter of 2003. The negotiations involved a proposal that the forging supplier would pay Dana $2.5 million and Dana would forgo price reductions that it was entitled to receive under the existing agreement. No agreement was ever signed with this supplier, either to restructure the original supply agreement or to obligate the supplier to pay Dana $2.5 million. The forging supplier nevertheless sent CVS two payments totaling $1 million in January and February 2004, which Steimle caused to be recorded as income in the fourth quarter of 2003. The forging supplier made an additional payment of $500,000 in March 2004, which was recorded as income in the first quarter of 2004. Under GAAP, these payments should have been amortized over

the life of Dana's supply agreement with the supplier because the payments were made in exchange for forgoing price reductions under that agreement. However, Hennessy, Hodge and Steimle decided to book these payments as income. As a result, Dana overstated its revenue for the fourth quarter of 2003 by $1 million, and for the first quarter of 2004 by $500,000.

(b) During the first quarter of 2005, CVS attempted to collect the remaining $1 million from the forging supplier. Hennessy sent an email in mid-February 2005, acknowledging that CVS needed the final $1 million from the forging supplier in order to meet profit expectations during the first quarter of 2005. Steimle directed the general purchasing manager for HVTSG to send two invoices to this supplier for the remaining $1 million on the last day of February 2005. CVS recorded these invoices as revenue, and thereby caused Dana to overstate its revenue for the first quarter of 2005 by approximately $1 million.

Improper Accounting Entries at the End of the First Quarter of 2005

26. At the end of the first quarter of 2005, Steimle decided that CVS should recognize income based on a letter of intent ("LOI") with a tool and die company for a proposed sale of equipment. Steimle directed a plant controller to record $300,000 in income based on the LOI with this company. When the plant controller questioned this directive, Steimle told her that the LOI had been reviewed and approved by "audit." However, this statement was false. Steimle also told the plant controller that it was important to book this income in order to meet profit goals. Because the LOI with the tool and die company was not a purchase agreement, and the equipment was not delivered during the first quarter of 2005, Dana's reported income for the first quarter of 2005 was overstated by $300,000.

27. Steimle also directed a CVS accounting manager to record an entry of approximately $1.1 million without any basis or documentation after CVS' books had closed for the first quarter of 2005. Steimle told the accounting manager that he and Hennessy had received "commitments" from the plants that the $1.1 million entry could be recorded as income. Because CVS' books for the first quarter had already been closed, the accounting manager requested that Dana's corporate accounting department post a corresponding journal entry on the books for CVS. Without reviewing any documentation for this accounting entry, Hodge authorized an accounting staffer to forward that request and inform Dana's corporate accounting department that he had approved the entries. As a result of this post-closing adjustment, Dana's income was overstated by $1.1 million in the first quarter of 2005.

Improper Accounting Entries During the Second Quarter of 2005

28. At the end of April 2005, the controller at a CVS plant reported $661,000 in losses. Hennessy and Steimle decided that the losses incurred were the result of incorrect pricing. They directed the plant controller to credit sales and debit a deferred receivable account in the amount of $661,000, which reduced the plant's losses to zero. (In July 2005, the plant controller was able to confirm that the losses were the result of higher costs for materials and reversed the previous entry.) As a result, Dana's income for the second quarter of 2005 was overstated by $661,000.

29. At the same time (April 2005), Hennessy and Steimle told the same plant controller that CVS expected to return certain bearings it had purchased in February and March 2005. They further instructed the plant controller to record $606,000 as income. Hennessy and Steimle knew that the bearings had not yet been returned when the income was recognized. The plant controller recorded $606,000 in a deferred receivable account and a credit to other income effective April 30, 2005. However, the bearings were never returned to the suppliers, and in July 2005 the plant

controller reversed this entry. Consequently, Dana's revenue in the second quarter of 2005 was thus overstated by $606,000.

Improper Accounting Entries After the End of Second Quarter of 2005

30. After the end of the second quarter of 2005, Steimle directed an accounting entry dated June 30, 2005, purportedly to correct negative inventory quantities at a CVS plant. Steimle discovered an earnings shortfall of roughly $200,000 after tax at the end of the second quarter of 2005. Steimle asked a CVS accounting manager twice on the same day whether there were any additional entries that could be made to improve CVS' financial performance for the quarter. The manager stated that there were not. Later that same day, Steimle directed the accounting manager to make an entry to reduce the cost of materials by $362,000. Hodge authorized his assistant to forward this request to Dana's corporate accounting department with his approval and without any review by him. Steimle never provided the CVS accounting manager with any documentation to support this entry, which inflated Dana's earnings by $362,000.

Recognizing Inappropriate Income from Spare Parts Transactions

31. During the first two quarters of 2005, Hennessy and Steimle also caused Dana to recognize income based solely on LOIs to sell spare parts to a machine tool supplier and an equipment finance company which did not comply with GAAP.

32. CVS signed a LOI with the machine tool supplier dated February 28, 2005, which provided, among other things, that the supplier would purchase a total of $800,000 in spare parts from two CVS plants. Although no contract was ever executed, CVS booked $800,000 in income as a trade receivable. In early April, Steimle advised Hennessy by email that if no additional documentation was received, the entry would need to be reversed. No additional documentation

was forthcoming, and the entry for this transaction was reversed during the second quarter of 2005. As a result, Dana's income for the first quarter of 2005 was overstated by $800,000.

33. In April 2005, Hennessy directed Steimle and others to negotiate a sale of spare parts to an equipment finance company. As with the preceding transaction, CVS recognized income on the transactions with the equipment finance company solely on the basis of LOIs, without an executed sales agreement. Steimle knew that these transactions suffered from the same defect as the preceding transaction. Moreover, the transaction with the equipment finance company required Dana to repurchase the spare parts at a premium and the risk of loss on those parts remained with Dana. This was essentially a financing arrangement disguised as a sale, and consequently no income could be recognized under GAAP.

34. Hodge became aware of efforts to sell spare parts to the equipment finance company by April 2005. In April and May 2005, CVS and the equipment finance company entered into five LOIs for the sale of spare parts which all contained the following provisions: (1) Dana was required to repurchase the spare parts it needed exclusively from the finance company for a set time period at a premium that ranged from 5% in the first year to 30% in the final year; (2) Dana would continue to insure the spare parts; (3) the risk of loss remained with Dana; and (4) the parts were to be maintained at Dana's facilities. Hennessy and Hodge instructed Steimle to recognize these transactions as income. As a result, CVS recognized $9.8 million as income from these transactions in April and May 2005.

35. In June 2005, Dana's treasurer was asked to sign a contract between Dana and the equipment finance company. The treasurer consulted with Dana's chief accounting officer ("CAO"), who told Hennessy and Steimle that no income could be recognized from these transactions. As a result, Hennessy and Steimle attempted to renegotiate the provisions of the

agreement with the finance company. However, Dana and the equipment finance company never reached an agreement and these accounting entries were reversed before the end of the second quarter of 2005.

Dana's Restatement of Financial Reports

36. Dana's Audit Committee discovered the fraudulent accounting entries in September 2005. Dana disclosed its accounting irregularities and errors between September and October 2005, which resulted in a drop of Dana's stock price from $12.78 to $6.04 per share, or 52.7%, and led to a $1 billion loss in Dana's market capitalization.

37. On December 30, 2005, Dana filed a Form 10-K/A that restated its Commission filings for fiscal year 2004 and Forms 10-Q/A for the first two quarters of 2005. The restatement corrected the fraudulent entries discussed above, as well as other accounting errors in CVS and other divisions. As shown below, Dana's original EBIT was $77 million for fiscal year 2004 and $130 million for the first two quarters of 2005.

(All dollar amounts in millions)	Yr. Ended 2004	Qtr. Ended 3/31/05	Qtr. Ended 6/30/05	Total
Dana Reported EBIT	77.0	38.0	92.0	207.0
Dana Restated EBIT	33.0	24.0	62.0	119.0
Total EBIT Overstatement	44.0	14.0	30.0	88.0
Overstatement as % of Restated EBIT	133.3%	58.3%	48.4%	73.9%

38. The reduction of earnings in the restatement was comprised of $31.6 million reduction in EBIT from the fraudulent accounting, or 26.5%, and approximately $56.4 million from other errors. As a result of the fraud and other accounting errors, Dana's restatement decreased its EBIT by a total of $88 million for 2004 and the first two quarters of 2005.

FIRST CLAIM FOR RELIEF
Violation of Section 17(a) of the Securities Act
(Hennessy, Hodge and Steimle)

39. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

40. Defendants Hennessy, Hodge and Steimle, directly or indirectly, knowingly, recklessly or negligently, in the offer or sale of a security, by the use of means or instrumentalities of interstate commerce or the mails: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of a material fact or the omission of a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of securities.

41. By engaging in the conduct described above, defendants Hennessy, Hodge and Steimle violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF
Violation of Section 10(b) of the Exchange Act
and Exchange Act Rule 10b-5
(All Defendants)

42. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

43. Defendants Hennessy, Hodge and Steimle, knowingly or recklessly, and defendant Cole, recklessly, directly or indirectly, by the use of means or instrumentalities of interstate commerce or of the mails, or of a facility of a national securities exchange, in connection with the purchase or sale of a security: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of a material fact or omitted a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading; or (c)

engaged in acts, practices or course of business which operated or would operate as a fraud or deceit upon other persons.

44. By engaging in the conduct described above, Defendants violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF
Violation of Section 13(b)(5) of the Exchange Act
and Exchange Act Rule 13b2-1
(All Defendants)

45. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

46. Defendants circumvented or failed to implement a system of internal accounting controls and, directly or indirectly, falsified or caused to be falsified, books, records or accounts subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

47. By engaging in the conduct described above, Defendants violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

FOURTH CLAIM FOR RELIEF
Violations of Exchange Act Rule 13b2-2
(Hennessy and Steimle)

48. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

49. Defendant Hennessy and Steimle, directly or indirectly, (i) made, or caused to be made, materially false or misleading statements or (ii) omitted to state, or caused others to omit or state, material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, to an accountant in connection with an audit, review

or examination of financial statements or the preparation or filing of a document or report required to be filed with the Commission.

50. By engaging in the conduct described above, Hennessy and Steimle violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

FIFTH CLAIM FOR RELIEF
Aiding and Abetting Dana's Violations
of Section 13(a) of the Exchange Act and
Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13
(All Defendants)

51. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

52. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], and Exchange Act Rules 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.13a-1, 240.13a-11 and 240.13a-13], require issuers of registered securities to file with the Commission factually accurate annual reports, quarterly reports, and Form 8-K reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] further provides that, in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they were made not misleading.

53. Dana violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

54. By engaging in the conduct described above, Defendants provided substantial assistance to Dana in its violations of the aforementioned provisions, thereby aiding and abetting the Company's violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and

Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

SIXTH CLAIM
Aiding and Abetting Dana's Violations
of Sections 13(b)(2)(A) of the Exchange Act
(All Defendants)

55. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

56. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires issuers of registered securities to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and disposition of its assets.

57. Dana violated Sections 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)-(B)].

58. By engaging in the conduct described above, Defendants provided substantial assistance to Dana in its violations of the aforementioned provisions, thereby aiding and abetting the Company's violations of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

PRAYER FOR RELIEF

Wherefore, the Commission respectfully prays that this Court:

(a) permanently enjoin Bernard Cole from violating Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5, 240.13b2-1], and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13];

(b) permanently enjoin William Hennessy from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Exchange Act Rules 10b-5, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1, 240.13b2-2], and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13];

(c) permanently enjoin Douglas Hodge from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5, 240.13b2-1], and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 140.13a-11, 240.13a-13];

(d) permanently enjoin Robert Steimle from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Exchange Act Rules 10b-5, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1, 13b2-2], and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A)] and Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13];

(e) issue an order directing Defendants Hennessy, Hodge and Steimle to disgorge their ill-gotten gains, including compensation and benefit, obtained through the conduct

described herein, plus prejudgment interest thereon, in the amounts indicated in the accompany individual consents;

(f) issue an order directing each of the Defendants to pay a civil money penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], in the amounts indicated in the accompanying individual consents;

(g) issue an order permanently barring Bernard Cole and Douglas Hodge from acting as an officer or director of any public company pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)];

(h) retain jurisdiction over 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; and

(i) grant such other and further relief as the Court may deem just and appropriate.

Dated: September 11, 2009.

Respectfully submitted,

/s/Robert M. Moye

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