KEVIN V. RYAN (CSBN 118321)
United States Attorney

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. ROBERT E. VENER, and DYNACORP FINANCIAL STRATEGIES, INC., Defendants.	No. CR 03-0279 FMS VIOLATIONS: 18 U.S.C. § 1341 – Mail Fraud; 18 U.S.C. § 1957 – Engaging in Monetary Transaction; 18 U.S.C. § 2 – Aiding and Abetting SAN FRANCISCO VENUE

SUPERSEDING INFORMATION

The United States Attorney charges:

COUNTS ONE: (18 U.S.C. §§ 1341 & 2– Mail Fraud and Aiding and Abetting)

Introductory Allegations

1. At all times relevant to this Information:

The Defendants

a. Defendant DYNACORP FINANCIAL STRATEGIES, INC. (hereinafter "DFS") and DFS Credit Corporation (hereinafter "DFSCC") were California corporations. DFS owned all of the stock of DFSCC. DFS and DSFCC's shared offices were located initially in San Francisco, later in San Rafael and finally in Novato, California.

b. Defendant ROBERT E. VENER (hereinafter “VENER”) was the majority shareholder in DFS, and Chief Executive Officer of DFS and DFSCC.

c. DFSCC was the grantor and administrator of the DFS Secured Healthcare Receivables Trusts I, II, III, and IV (hereinafter “DFS Trusts”). DFS was the beneficiary of the DFS Trusts.

Advanced Funding of Healthcare Receivables

d. Defendants VENER, DFS and DFSCC (hereinafter “defendants”) promoted an investment program described as advanced funding of healthcare providers’ accounts receivables (hereinafter “receivables”). Under the DFS Trusts’ indentures, healthcare providers included hospitals, doctors, medical groups, health maintenance organizations, and rehabilitation centers, but did not include the DFS Trusts. The DFS Trusts had the authority to raise funds from investors to be used for the purchase of receivables at a discount.

e. Defendants caused the DFS Trusts to give promissory notes to investors in exchange for investor funds. Thus, investors became DFS Trusts’ Noteholders. Defendants caused investor funds to be deposited in a lockbox bank account under the control of independent trustees, a trust company for DFS Trusts I, II & IV, and a law firm for DFS Trust III.

f. As described by defendants, advanced funding meant that a percentage of the amount due on each receivable would be advanced immediately to the healthcare provider. Healthcare providers would still be responsible for collecting the receivables sold to the DFS Trusts. Receivables would be paid by healthcare recipients, or other entities responsible for paying receivables such as insurance companies or government agencies. The healthcare providers would forward, or direct other payers to forward, receivables payments to either: (1) the bank account of the DFS Trust purchasing the receivable, or (2) an intermediate bank lockbox account. In the latter case, a transfer would be made from the bank lockbox account to the bank account of the DFS Trust purchasing the receivable. The receivables payments would be both the source for repayment of principal and interest to the DFS Trusts' Noteholders and the source for purchases of additional receivables.

g. Defendants marketed the DFS Trusts' investment directly, and through intermediaries known as wholesalers, to broker/dealers in various states. The broker/dealers and their representatives presented the DFS Trusts' investment to individual and institutional investors. The defendants created private placement memoranda (hereinafter "PPMs") and other sales literature which described the DFS Trusts' investment. The defendants provided the PPMs and subscription agreements to broker/dealers who in turn provided them to prospective investors. Between February 1, 1998 and June 2000, over 600 investors located in over thirty states and several foreign countries invested or reinvested approximately $50,000,000 in the DFS Trusts. The monies from investors were wired or mailed to DFS Trusts' accounts at the Bank of America and Westamerica Bank.

Scheme to Defraud

2. Beginning on an unknown date, but no later than on or about June 23, 1998, and continuing to on or about June 23, 2000, the defendants devised and intended to devise a scheme and artifice to defraud wholesalers, broker/dealers, DFS Trusts' Noteholders and prospective investors, and to obtain money by false and fraudulent pretenses, representations and promises.

3. In particular, the defendants made false representations to wholesalers, broker/dealers, DFS Trusts' Noteholders and prospective investors in that they continued to market the DFS Trusts' investment using PPMs and other sales literature after they knew that such written material contained false and misleading statements.

4. The false statements contained in the PPMs and other sales literature included the following:

a. The DFS Trusts would purchase receivables from healthcare providers;

b. The receivables purchased would have a net collectible value;

c. The receivables purchased would be aged less than either 90 or 180 days from the billing date;

5. Contrary to the representations in the PPMs and other sales literature, the defendants caused large-scale sales and purchases of receivables between the DFS Trusts instead of purchasing receivables directly from healthcare providers. Defendants engaged in inter-DFS Trusts' sales and purchases to generate cash for interest and/or principal payments to DFS Trusts' Noteholders. Defendants also engaged in inter-DFS Trusts' sales and purchases instead of purchasing receivables directly from providers to conceal the DFS Trusts' precarious financial condition from DFS Trusts' Noteholders and new investors.

6. Significant percentages of the receivables the defendants caused to be purchased were aged longer than 90 days and 180 days and uncollectible. On at least one occasion, receivables were purchased which were in litigation. Defendants on occasion used money paid by DFS Trusts' Noteholders for the purchase of receivables to pay principal and interest to other DFS Trusts' Noteholders.

7. Defendants also falsely represented the financial condition of DFS, DFSCC and the DFS Trusts as sound. For example, defendants caused the creation of 1998 and 1999 consolidated balance sheets of DFS and subsidiaries which grossly overstated the net realizable value of receivables by failing to record sufficient allowances for doubtful accounts. By understating doubtful accounts, the 1998 and 1999 consolidated balance sheets falsely represented that the collectible receivables exceeded the sum of current liabilities and long term debt, thus leaving the false impression that there were sufficient assets to satisfy, or substantially satisfy any claims by DFS Trusts' Noteholders. Similarly, defendants falsely represented to investors in PPMs that the assets of the DFS Trusts either exceeded in value or were close to exceeding in value the amount of the notes outstanding to DFS Trusts' Noteholders.

8. Defendants falsely represented how well the Defendants and the DFS Trusts were

doing in receiving and collecting receivables proceeds. Defendants assured wholesalers and broker/dealers that collections were being made and that there were no significant problems in collecting receivables. In fact, collections of receivables from certain important healthcare providers were not being made, or were being made in amounts substantially under the estimated net collectible value of the receivables purchased.

Use of the Mails

9. On or about March 30, 2000, in the Northern District of California and elsewhere, the defendants

ROBERT E. VENER, and
DYNACORP FINANCIAL STRATEGIES, INC.

for the purpose of executing the scheme and artifice to defraud wholesalers, broker/dealers, DFS Trusts' Noteholders and prospective investors and attempting so to do, did knowingly cause two checks from Resources Trust in the amounts of $319,000 and $100,000 to be delivered by United Parcel Service, a commercial interstate carrier, from Denver, Colorado to Novato, California.

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

COUNT TWO: (18 U.S.C. §§ 1957 & 2) – Engaging in Monetary Transaction and Aiding and Abetting)

10. On or April 3, 2000, in the Northern District of California and elsewhere, the defendants

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did knowingly and intentionally engage in and attempt to engage in a monetary transaction in criminally derived property, namely, the withdrawal of $150,000 from a DFS Trust I bank account at the Bank of America in Santa Rosa, California, said property

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having been derived from the proceeds of a specified unlawful activity, that is, proceeds obtained by mail fraud from Resources Trust.

All in violation of Title 18, United States Code, Sections 1957 and 2.

DATED:

KEVIN V. RYAN
United States Attorney

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ROSS W. NADEL
Chief, Criminal Division

(Approved as to form: ___________)
AUSA Leigh