

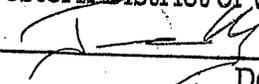
Magistrate Judge Brian A. Tsuchida

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Western District of Washington

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

FREDERICK DARREN BERG,

Defendant.

MAGISTRATE'S DOCKET NO.
CASE NO.

MI10-442

COMPLAINT for Violation
Title 18 United States Code
Sections 1343; 1957 and 152(1)

BEFORE BRIAN A. TSUCHIDA, United States Magistrate Judge, U.S. Courthouse,
Seattle, Washington.

The Undersigned complainant being duly sworn states:

COUNT 1
(Wire Fraud)

I. The Offense

1. Beginning at an exact time unknown, but no later than sometime in 2001,
and continuing until in or around August 2010, at Seattle and elsewhere, within the
Western District of Washington, FREDERICK DARREN BERG did knowingly and
willfully devise and execute and attempt to execute a scheme and artifice to defraud, and
for obtaining money and property by means of material false and fraudulent pretenses,
representations, and promises; and in executing and attempting to execute this scheme
and artifice, did knowingly cause to be transmitted in interstate commerce by means of
wire communication, certain signs, signals and sounds.

1 **II. Object of the Scheme and Artifice to Defraud**

2 2. The object of the scheme and artifice to defraud was to defraud investors by
3 falsely representing that FREDERICK DARREN BERG was using investor funds to
4 purchase seller financed real estate contracts, real estate, mortgage backed securities and
5 also to make hard money loans, all of which he falsely claimed would generate profits to
6 repay the investors. In fact, as he then well knew, during the course of the scheme and
7 artifice to defraud, FREDERICK DARREN BERG misappropriated millions of dollars in
8 investor funds which he used for his own benefit and to pay off the loans of earlier
9 investors in order to conceal his false statements and continue his scheme to defraud.

10 **III. Introduction - The Meridian Investor Funds and CS Note Holdco**

11 3. Between January 2001, and August 2010, FREDERICK DARREN BERG
12 created and operated a series of investment funds purportedly for the purpose of investing
13 in seller financed real estate contracts, hard money loans, real estate and mortgage backed
14 securities. These funds were known as: Meridian Mortgage Investors Funds 1, 2, 3, 5, 6,
15 7, 8, 9, and 10 (the mortgage investment funds); Meridian Real Estate Opportunity Funds
16 1 and 2 (the real estate investment funds); and CS Note Holdco (the mortgage backed
17 security investment fund). After failing to make recurring interest payments to investors
18 on or about June 15, 2010, the investors in Funds 2, 5, 7, and 8 filed a petition with the
19 United States Bankruptcy Court for the Western District of Washington to force the funds
20 into Chapter 11 bankruptcy proceedings. Funds 6, 9, and 10 were added to the
21 bankruptcy proceedings on August 4, 2010, and Real Estate Opportunity Funds 1 and 2
22 were added to the bankruptcy proceedings on August 16, 2010. On or about July 27,
23 2010, FREDERICK DARREN BERG filed a petition for personal bankruptcy.

24 4. The mortgage investment funds were purportedly established to primarily
25 invest in the purchase of seller financed real estate contracts and to fund short term loans
26 backed by mortgages on real property. Payments to investors in the mortgage investment
27 funds were purportedly to be made from the cash flows generated by borrower payments.
28 Funds 1, 2, 3, 5, 6, 7, and 8 of the mortgage investment funds were established between

1 January 2001, and February 2004. Funds 9 and 10 of the mortgage investment funds
2 were established in November 2009. FREDERICK DARREN BERG raised
3 approximately \$350 million from approximately 1,000 investors in the mortgage
4 investment funds between January 2001 and August 2010.

5 5. The real estate investment funds were purportedly established to invest in
6 the purchase of real estate. Payments to investors in the real estate investment funds were
7 purportedly to be made from profits generated through the sale of properties purchased by
8 the funds. Funds 1 and 2 of the real estate investment funds were established between
9 March and July 2009. FREDERICK DARREN BERG raised approximately \$7.65
10 million from over 60 investors in the real estate investment funds between March 2009
11 and August 2010.

12 6. CS Note Holdco was purportedly established to invest in the purchase, from
13 their current holders, of promissory notes previously issued by Funds 5, 7, and 8 at a
14 minimum discount of thirty percent. Payments to investors in CS Note Holdco were
15 purportedly to be made from the cash flow received from CS Note Holdco's ownership of
16 the Fund 5, 7, and 8 notes. FREDERICK DARREN BERG raised approximately
17 \$4,055,000 from 15 investors in CS Note Holdco between September 2009, and
18 December 2009.

19 7. FREDERICK DARREN BERG exercised exclusive control over the
20 operation of each of the investment funds and was the only person with access to the
21 funds' bank records. FREDERICK DARREN BERG was the sole signatory on the
22 funds' bank accounts and the only person with access to all of the funds' accounting
23 records including records related to the funds' investors, the funds' assets, and the funds'
24 expenses.

25 **IV. Manner and Means of the Scheme and Artifice to Defraud**

26 **A. Defendant's Fraud and False Representations Regarding the Meridian 27 Mortgage Investment Funds.**

28 8. It was part of the scheme and artifice to defraud that FREDERICK
DARREN BERG falsely represented that the Meridian Mortgage Investment Funds

1 would use investor money solely to purchase seller financed real estate contracts, fund
2 short term loans, purchase real estate and pay management and servicing fees to
3 FREDERICK DARREN BERG and his related companies. In truth and in fact, as
4 FREDERICK DARREN BERG then well knew, he misappropriated millions of dollars of
5 the investors' money for his other business interests including the creation and operation
6 of a luxury bus company named MTR Western and several subsidiaries, the purchase of
7 several multi-million dollar yachts and private jets, the purchase and remodeling of a
8 multi-million dollar waterfront mansion on Mercer Island, Washington, the purchase
9 and/or lease of luxury automobiles, and other personal expenses.

10 9. It was further part of the scheme and artifice to defraud that FREDERICK
11 DARREN BERG also used money from new investors in the mortgage investment funds
12 to make interest payments and cover redemption requests from existing investors in the
13 funds. As to Funds 9 and 10, FREDERICK DARREN BERG never purchased any assets
14 as promised in the promotional and offering materials for the funds, but instead used all
15 of the investor money generated from the promotion of these funds to cover interest
16 payments and redemption requests for investors in other Meridian funds and for his own
17 personal expenses.

18 10. It was further part of the scheme and artifice to defraud that in order to
19 conceal and continue his scheme to defraud, FREDERICK DARREN BERG fabricated
20 false records for many of the seller financed real estate contracts and loans purportedly
21 purchased or financed by the funds. These false records included fake loan files with
22 fake appraisal reports and fake title reports, and fake loan servicing files with fake
23 accounting records and fake payment histories.

24 11. It was further part of the scheme and artifice to defraud that in order to
25 conceal and continue his scheme to defraud, FREDERICK DARREN BERG used these
26 false records to book fake assets on behalf of the funds in order to mislead investors and
27 auditors as to the true health and makeup of the mortgage investment funds' asset
28 portfolios.

1 12. It was further part of the scheme and artifice to defraud that in order to
2 conceal and continue his scheme to defraud, FREDERICK DARREN BERG fabricated
3 false bank statements used to mislead investors and auditors as to the true health of the
4 mortgage investment funds.

5 13. It was further part of the scheme and artifice to defraud that in order to
6 conceal and continue his scheme to defraud, FREDERICK DARREN BERG mislead
7 independent auditors hired to audit the funds in order to conceal his false statements and
8 continue his scheme to defraud. In or around August 2007, FREDERICK DARREN
9 BERG opened dozens of private mail boxes (PO Boxes) in the names of fabricated
10 borrowers who were on a list of borrowers who were to receive loan confirmation letters
11 from an independent auditor. FREDERICK DARREN BERG placed automatic mail
12 forwarding instructions on the PO Box addresses to forward any mail received to an
13 address he controlled in Seattle, Washington. FREDERICK DARREN BERG then listed
14 those PO Box addresses on the fake loan files. When the independent auditor sent the
15 loan confirmation letters, FREDERICK DARREN BERG received the letters at the
16 address he controlled, completed the confirmations, and mailed the confirmations back to
17 the independent auditor. FREDERICK DARREN BERG also used the fake loan files,
18 fake loan servicing files, fake bank account statements and fabricated accounting
19 worksheets to mislead the independent auditors as to the true health and makeup of the
20 mortgage investment funds.

21 14. It was further part of the scheme and artifice to defraud that in order to
22 conceal and continue his scheme to defraud, FREDERICK DARREN BERG issued
23 annual reports to investors in the funds that falsely represented the number and value of
24 assets owned by the funds.

25 **B. Defendant's Fraud and False Representations Regarding the Meridian**
26 **Real Estate Investment Funds.**

27 15. It was further part of the scheme and artifice to defraud that FREDERICK
28 DARREN BERG falsely claimed that the Meridian Real Estate Investment Funds would
use investor money solely to purchase real estate and pay management and servicing fees

1 to BERG and his related companies. In truth and in fact, as FREDERICK DARREN
2 BERG then well knew, he created the Meridian Real Estate Investment Funds for the
3 purpose of raising money to make interest payments and redemption payments to
4 investors in other funds and to fund his own personal expenses.

5 16. It was further part of the scheme and artifice to defraud that FREDERICK
6 DARREN BERG did not use any of the money raised from investors in the real estate
7 investment funds to purchase assets as promised in the funds' promotional and offering
8 materials. Instead, FREDERICK DARREN BERG used all of the investor money
9 generated from the promotion of these funds to cover interest payments and redemption
10 requests for investors in other Meridian funds and for his own personal use.

11 **C. Defendants Fraud and False Representations Regarding CS Note**
12 **Holdco.**

13 17. It was further part of the scheme and artifice to defraud that FREDERICK
14 DARREN BERG falsely claimed that CS Note Holdco would use investor money solely
15 to purchase notes previously issued by Funds 5, 7, and 8, and then held by a Bellevue,
16 Washington-based investment advisory firm at a discount of no less than 30% off face
17 value. In truth and in fact, as FREDERICK DARREN BERG then well knew, he used
18 the investors money to pay the Bellevue, Washington-based investment advisory firm
19 money it was owed for investments in other Meridian funds and to fund his own personal
20 expenses.

21 18. It was further part of the scheme and artifice to defraud that FREDERICK
22 DARREN BERG falsely represented to investors in CS Note Holdco, that a purported
23 agreement with the Bellevue, Washington-based investment advisory firm to sell its notes
24 at a 30% discount was effectively completed, was in the process of being "papered," and
25 would be signed within days. In truth and in fact, as FREDERICK DARREN BERG then
26 well knew, no such agreement was ever completed or in process.

27 19. It was further part of the scheme and artifice to defraud that FREDERICK
28 DARREN BERG falsely represented that he was negotiating with a third party who was
purportedly going to purchase the notes from CS Note Holdco at a greater price than CS

1 Note Holdco was to pay the Bellevue, Washington-based investment advisory firm. In
2 truth and in fact, as FREDERICK DARREN BERG then well knew, there was no third
3 party negotiating for the purchase of the notes.

4 20. It was further part of the scheme and artifice to defraud that in order to
5 convince investors of the veracity of his claim that a third party was negotiating with him
6 for the purchase of the notes, FREDERICK DARREN BERG fabricated e-mail
7 correspondence between himself and a fictitious potential buyer named "John Arlett." In
8 truth and in fact, as FREDERICK DARREN BERG then well knew, "John Arlett" was an
9 alias name used by FREDERICK DARREN BERG and the e-mail correspondence was
10 entirely fictional.

11 **D. Losses Resulting from the Scheme and Artifice to Defraud**

12 21. It was further part of the scheme and artifice to defraud that between
13 January 2001, and August 2010, FREDERICK DARREN BERG raised over \$350 million
14 from over 1,000 investors in his investment funds. As a result of FREDERICK
15 DARREN BERG's scheme and artifice to defraud, victims lost over \$100 million that he
16 used for his personal benefit and to promote his scheme to defraud.

17 **V. Execution of the Scheme and Artifice to Defraud**

18 22. On or about May 27, 2010, within the Western District of Washington and
19 elsewhere, FREDERICK DARREN BERG, for the purpose of executing the
20 aforementioned scheme and artifice to defraud and to obtain money by means of false and
21 fraudulent pretenses, representations, promises and omissions of material facts, and
22 attempting to do so, did knowingly and intentionally cause to be transmitted, in interstate
23 commerce by means of a wire communication, certain signs, signals, and sounds, that is, a
24 wire transfer of \$495,000.00 which represented an investment by C.B. into Meridian
25 Mortgage Investment Fund II, from the Wells Fargo Bank account of C.B., to the

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1 Commerce Bank account of MPM Investor Services (FBO MMIFII), which was
2 transmitted in interstate commerce via the Fedwire system in New Jersey to the Western
3 District of Washington.

4 All in violation of Title 18, United States Code, Section 1343.

5 **COUNT 2**
6 **(Money Laundering)**

7 On or about May 10, 2007, within the Western District of Washington,
8 FREDERICK DARREN BERG did knowingly engage in a monetary transaction in
9 criminally derived property of a value greater than \$10,000.00 and derived from specified
10 unlawful activities - namely, wire fraud, a violation of Title 18, United States Code,
11 Section 1343, to wit: a transfer of \$1,000,000.00 from the Commerce Bank account of
12 Meridian Partnership Management, Inc. to the Commerce Bank account of FREDERICK
13 DARREN BERG.

14 All in violation of Title 18, United States Code, Section 1957.

15 **COUNT 3**
16 **(Bankruptcy Fraud - Asset Concealment)**

17 Beginning on or about July 27, 2010, and continuing through the present,
18 defendant FREDERICK DARREN BERG, in a matter pending before the United States
19 Bankruptcy Court for the Western District of Washington, *In Re: Frederick Darren Berg*,
20 Case No. 10-18668 (Bankr. W.D. Wash.), knowingly and fraudulently concealed and
21 caused to be concealed from the trustee appointed pursuant to Title 11, United States
22 Code, Section 701(a)(1), certain personal property belonging to a bankruptcy estate,
23 including: 1) approximately \$398,773.57 that represented the proceeds from the sale of
24 real property on July 28, 2010; 2) a brokerage account in the name of DB517 LLC at TD
25 Ameritrade, and; 3) an interest in a limited liability company named DB517 LLC.

26 All in violation of Title 18, United States Code, Section 152(1).

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1 And the complainant states that this Complaint is based on the following
2 information:

3 I, STEVEN RAUSCH, being first duly sworn on oath, depose and say:

4 1. I am a Special Agent with the Federal Bureau of Investigation (FBI), United
5 States Department of Justice and have been so employed for approximately eight years.
6 As a Special Agent, I have conducted numerous investigations involving white collar
7 crimes including investment frauds and Ponzi schemes involving wire fraud, mail fraud
8 and/or securities fraud. As a result, I am familiar with schemes involving the use of false
9 statements to promote the sales of investments. I am currently assigned to the Seattle
10 office of the FBI.

11 2. I make this affidavit in support of a Complaint charging FREDERICK
12 DARREN BERG with Wire Fraud in violation of Title 18, United States Code, Section
13 1343, Money Laundering in violation of Title 18, United States Code, Section 1957; and
14 Bankruptcy Fraud in violation of Title 18, United States Code, Section 152(1). This
15 affidavit is submitted solely for the purpose of establishing probable cause for the
16 complaint and does not purport to set forth all of my knowledge of, or investigation into,
17 this case.

18 SUMMARY OF THE INVESTIGATION

19 3. Since July 2010, I have been participating in the investigation of
20 FREDERICK DARREN BERG and several companies owned by Mr. Berg, including a
21 series of investment funds that purportedly invested in seller financed real estate
22 contracts, hard money loans, real estate, and mortgage backed securities. Mr. Berg
23 initially approached the government through counsel who indicated that Mr. Berg had
24 committed a fraud and wished to provide a full accounting of his activity and cooperate
25 with the government. Counsel indicated, however, that while Mr. Berg had committed
26 fraud and misappropriated investor funds toward the end of his ten plus year run at the
27 helm of his various funds, the majority of the losses to investors were the result of market
28 forces, and Mr. Berg only began lying about the health and scope of the funds when the

1 real estate market began to retract in 2007 and 2008. Mr. Berg subsequently made similar
2 statements through counsel as well as individually during initial interviews with a
3 bankruptcy trustee appointed to oversee several of his investment funds that had been
4 forced into involuntary bankruptcy.

5 4. Contrary to Mr. Berg's initial representations regarding the extent and scope
6 of the fraud, our investigation has revealed that in fact, Mr. Berg's investment funds
7 never purchased or owned many of the assets he claimed to have purchased with investor
8 funds and he has been making numerous false statements about the investment funds for
9 much longer than he initially admitted.

10 5. Mr. Berg subsequently admitted that he fabricated records for assets
11 purportedly held by the funds, mislead independent auditors hired to audit the funds, and
12 stole millions of dollars of investor money to support his other personal business interests
13 and fund a lavish lifestyle. The investigation has further revealed that, contrary to Mr.
14 Berg's initial representations, market forces had absolutely nothing to do with the losses
15 and Mr. Berg's fraud has resulted in losses to investors of over \$100 million.

16 6. Over the last three months, Mr. Berg has continued to offer his cooperation
17 with our investigation and with that of two independent bankruptcy trustees appointed to
18 oversee Mr. Berg's investment funds and his personal estate. Mr. Berg has met regularly
19 with the bankruptcy trustees to review records related to his fraud and assist them with
20 their investigation of his assets. In addition, Mr. Berg has met with the FBI and the
21 United States Attorneys Office and provided us with a lengthy statement regarding his
22 scheme to defraud investors.

23 7. Despite Mr. Berg's efforts to appear cooperative and forthright, I have
24 recently learned that Mr. Berg has continued to lie to the FBI, the bankruptcy trustees and
25 others over the last three months, about his assets, his bank accounts, and the source of
26 substantial sums of money that he continues to control. Among other things, Mr. Berg
27 has falsely stated to the trustee overseeing his personal bankruptcy that he obtained two
28 consulting jobs shortly after filing his personal bankruptcy petition in late July 2010, and

1 that these consulting jobs were the source of a \$225,000.00 wire transfer on August 3,
2 2010, into a bank account he controlled. I have learned that at least one of the two
3 companies Mr. Berg claims had hired him, did not in fact hire him. Moreover, I have
4 discovered that the source of the \$225,000.00 wire transfer was actually a bank account
5 Mr. Berg controlled in the name of one of his many business interests and the funds in
6 that bank account did not come from either of the consulting companies Mr. Berg claimed
7 had hired him. I have also learned that this money was in fact a portion of the proceeds
8 from the sale of real estate that Mr. Berg owned at the time he filed for bankruptcy and
9 sold on July 28, 2010, the day after he filed for personal bankruptcy.

10 THE INVESTIGATION

11 I. Initial Meeting with Counsel for Darren Berg

12 8. On July 16, 2010, an attorney representing FREDERICK DARREN BERG
13 contacted the United States Attorneys Office and requested a meeting to discuss his
14 client's involvement in an investment fraud. Mr. Berg's counsel indicated that his client
15 wished to come in "palms up" and cooperate fully with a Federal investigation. I met
16 with Mr. Berg's counsel along with two Assistant United States Attorneys. Mr. Berg's
17 counsel explained that Mr. Berg ran a series of investment funds that purportedly invested
18 in seller financed real estate mortgages and hard money loans (generally, short term,
19 above market rate, loans to individuals and businesses). According to Mr. Berg's
20 counsel, Mr. Berg began operating these funds beginning around 2000, or 2001. I have
21 since learned that these funds were known as Meridian Mortgage Investors Funds 1, 2, 3,
22 5, 6, 7, 8, 9 and 10 (hereinafter "the Meridian Mortgage Investment Funds"). Mr. Berg's
23 counsel explained that he did not know how many investors had invested with Mr. Berg's
24 funds but noted that the investors needed to have a net worth of over \$1 million in order
25 to invest with Mr. Berg. Mr. Berg's counsel estimated that the investment funds had
26 raised approximately \$200,000,000.00 (two hundred million dollars).

27 9. According to Mr. Berg's counsel, the real estate contracts and hard money
28 loans that comprised the assets of the various funds began performing poorly beginning in

1 approximately 2008, and Mr. Berg failed to disclose the poor performance of these assets.
2 Mr. Berg's counsel indicated that Mr. Berg began to attempt to keep the funds solvent by
3 moving money around between the funds, his other business, and his personal assets. Mr.
4 Berg's counsel indicated that Mr. Berg's criminal liability was primarily related to his
5 failure to disclose the overall poor performance of the funds' assets and to specifically
6 disclose the overall increase of the default rate of the real estate contracts underlying the
7 funds assets. Mr. Berg's counsel further indicated that the losses to Mr. Berg's investors
8 were primarily related to market forces. According to Mr. Berg's counsel, during this
9 period, some investors began requesting a full redemption or repayment of their initial
10 invested principal when their 12 month notes matured. According to Mr. Berg's counsel,
11 the investor redemption requests began creating problems for Mr. Berg because the value
12 of the real estate contracts and hard money loans had been over stated by Mr. Berg.
13 Despite this over statement of value, Mr. Berg allowed some investors to redeem their
14 notes for 100% of the notes' value and over paid the investor at maturity. Mr. Berg's
15 counsel stated that it was probable that some of the newest investor monies was used to
16 shore up the funds.

17 10. Mr. Berg's counsel, however, indicated that in regards to at least two of the
18 funds, Mr. Berg had misused investor funds since the inception of the funds. He stated
19 that the losses in those funds were not market related. Mr. Berg's counsel explained that
20 Mr. Berg thought that he could keep his business afloat until the market stabilized, at
21 which point Mr. Berg thought that he could sell his other companies and pay off the
22 funds' investors.

23 11. Mr. Berg's counsel explained that Mr. Berg was responsible for keeping the
24 books for the investment funds and Mr. Berg controlled all the accounts for the
25 businesses relevant to the improper activities. According to Mr. Berg's counsel, the
26 Meridian Funds were regularly audited through 2007, but had not been audited in
27 subsequent years. Mr. Berg's counsel explained that reports provided to investors since
28 2008 have not been accurate because the reports have misrepresented that the assets

1 owned by the funds were performing.

2 **II. The Meridian Investor Funds and CS Note Holdco**

3 12. I have reviewed the promotional materials for various investment funds
4 within the Meridian Group of Companies, including the Offering Memoranda for
5 Accredited Investors for Meridian Mortgage Investors Fund V, LLC (hereinafter "Fund
6 5") and Meridian Mortgage Investors Fund VII, LLC (hereinafter "Fund 7"), and learned
7 that the funds provided by investors were to be used to purchase real estate secured
8 mortgages, which would collectively form a Collateral Mortgage Pool. According to the
9 promotional materials, principal and interest payments on notes sold to the investors
10 would be made from the cash flow generated from the mortgages comprising the
11 collateral mortgage pool. Furthermore, I learned that the investment funds had entered
12 into a Management and Servicing Agreement with Meridian Partnership Management
13 (hereinafter MPM or Meridian), who would manage the acquisition, underwriting,
14 closing, servicing, and disposition of the mortgages that comprised the Collateral
15 Mortgage Pool.

16 13. The Offering Memoranda explain that MPM's core competency is "in
17 buying and selling seller financed mortgages at a discount." The Offering Memoranda
18 further state that "the vast majority of the seller financed mortgages Meridian buys are
19 sold into portfolios that Meridian manages and services for its clients, which include
20 federally insured banks, trusts, ERISA qualified pension and profit sharing plans, other
21 mortgage companies, and private investors." Finally, the Offering Memoranda state that,
22 "at present, Meridian has approximately \$100,000,000 (one hundred million dollars) in
23 seller financed mortgages under its management pursuant to agreements similar to the
24 Management and Servicing Agreement between Meridian and [Fund 5]." The Offering
25 Memoranda further state "Meridian and [Fund 5] share common ownership. Specifically,
26 Darren Berg owns 100% of Meridian and 100% of [Fund 5]."

27 14. The Offering Memoranda further provide that funds provided by investors
28 would be deposited directly into a Custodial Account, which would be exclusively

1 controlled by MPM Investor Services, Inc. (hereinafter MPMIS), which had been retained
2 as the security agent for the company's cash reserves and for the Collateral Mortgage Pool
3 securing repayment of the Note. According to the Offering Memoranda, MPMIS is a
4 wholly owned subsidiary of MPM, which shares common ownership with the investment
5 funds. Moreover, the Offering Memoranda specifically state that "MPM Investor
6 Services, Inc. is not an independent Agent." I know through my review of publicly
7 available corporate records and interviews with witnesses in this investigation that MPM
8 and MPMIS are both 100% owned and controlled by FREDERICK DARREN BERG.

9 15. I have also reviewed the 2009 Annual Report to Noteholders for Fund 5 and
10 Fund 7, which stated that as of December 31, 2009, the assets owned by both funds
11 "continue to perform well" and that each fund "remains profitable." According to the
12 2009 annual reports for these two funds, as of December 31, 2009, the two funds
13 purported to have assets and liabilities that totaled approximately \$44.6 million and \$69
14 million, respectively. Furthermore, the 2009 annual reports indicate that as of December
15 31, 2009, Fund 5 had approximately \$2.2 million of cash and cash equivalents and Fund 7
16 had approximately \$3.16 million of cash and cash equivalents. The 2009 annual report
17 for Fund 5 further stated that as of December 31, 2009, Fund 5 owned 493 mortgages
18 with balances totaling \$42.3 million and had 346 notes outstanding to investors for a total
19 of \$40.1 million. Similarly, the 2009 annual report for Fund 7 stated that as of December
20 31, 2009, Fund 7 owned 125 mortgages with balances totaling \$65.8 million and had 433
21 notes outstanding to investors for a total of \$66.8 million.

22 16. Myself and other agents involved in this investigation have had numerous
23 discussions with bankruptcy trustee Mark Calvert who is overseeing the various Meridian
24 Investor Funds that have been placed into bankruptcy including Funds 2, 5, 6, 7, 8, 9 &
25 10. I know from these discussions that each of the funds operated similarly. Significant
26 differences include, but are not limited to, the fact that some of the earlier funds operated
27 with a fully independent custodial agent named PR Investor Services. According to
28 former employees of Meridian's loan processing department, when PR Investor Services

1 acted as a custodial agent, all loan purchases were subject to approval by PR Investor
2 Services. I know based on the discussions with Mr. Calvert as well as my review of the
3 promotional materials from later funds, that PR Investor Services was purchased by MPM
4 Investor Services, thereby removing the independent custodial agent, sometime in 2007 or
5 2008. I also know that while some of the funds purportedly invested in short-term hard
6 money loans, all of the funds assets/loans were purportedly secured by real estate of one
7 form or another. According to Mr. Calvert, his investigation has revealed that the
8 Meridian Mortgage Investors Funds raised approximately \$350 million from
9 approximately 1,000 investors between January 2001, and August 2010.

10 17. I have also reviewed a valuation report prepared by the Deloitte accounting
11 firm dated January 27, 2010, that evaluated the value of the "Meridian Group of
12 Companies." This report was provided to me by a former senior employee of Meridian
13 Partnership Management and was prepared at the request of Meridian's former CFO.
14 According to this report, the Meridian Investment Funds purportedly "collectively own
15 2,348 mortgages with an aggregate unpaid principal balance of approximately \$191.5
16 million as of December 31, 2009."

17 18. As part of my investigation, I spoke to a former senior employee of
18 Meridian Partnership Management whose duties included marketing the Meridian funds.
19 The former senior employee explained that Meridian Real Estate Opportunity Funds 1
20 and 2 were funds established within the last two years purportedly for the purpose of
21 investing in real estate. According to the former senior employee, Meridian Real Estate
22 Opportunity Fund 1 was established in March 2009, and had raised approximately \$7
23 million by August 2009. However, the former senior employee stated that Meridian Real
24 Estate Opportunity Fund 1 had not invested in any real estate as of July 2010. The former
25 senior employee also believed that Meridian Real Estate Opportunity Fund 2 had raised
26 approximately \$700,000.00. According to Mr. Calvert, his investigation has discovered
27 that the Meridian Real Estate Opportunity funds raised approximately \$7.65 million from
28 over 60 investors between March and July 2009.

1 19. I have also reviewed the Private Placement Memorandum for CS Note
2 Holdco, a Washington limited liability company established by Mr. Berg. According to
3 the Private Placement Memorandum for CS Note Holdco, the company was established
4 by MPM "for the purpose of opportunistically investing in Mortgage Backed Promissory
5 Notes previously issued by Meridian Investors Fund V, LLC, Meridian Mortgage
6 Investors Fund VII, LLC, and Meridian Mortgage Investors Fund VIII, LLC, at a
7 discount of no less than 30% off face value." According to the Private Placement Memo,
8 CS Note Holdco was offering 2,500 limited liability company interests at \$10,000.00 per
9 unit for a maximum offering of \$25 million. Although CS Note Holdco is not part of the
10 bankruptcy proceedings, Mr. Calvert has communicated with attorneys representing the
11 CS Note Holdco investors and learned that CS Note Holdco raised approximately \$4.055
12 million from 15 investors between September 2009, and December 2009.

13 **III. Meridian Investor Funds Involuntary Bankruptcy**

14 20. I have reviewed the docket and court filings for the case of *In Re: Meridian*
15 *Mortgage Investors Funds II-X*, United States Bankruptcy Court for the Western District
16 of Washington, Case Number 10-17952 and I have learned that on or about July 9, 2010,
17 several investors in the Meridian Funds initiated actions to force four of the funds into
18 involuntary bankruptcy. On July 16, 2010, the Honorable Phillip H. Brandt, United States
19 Bankruptcy Judge entered an Order to jointly administer the bankruptcies of each of the
20 funds and to appoint a Chapter 11 trustee.

21 21. On July 20, 2010, the Honorable Samuel J. Steiner entered an Order
22 appointing Mark Calvert of Cascade Capital Group as the Chapter 11 Trustee for the
23 following four funds that were subject to the initial involuntary bankruptcy:

24 Meridian Mortgage Investors Fund II, LLC;
25 Meridian Mortgage Investors Fund V, LLC;
26 Meridian Mortgage Investors Fund VII, LLC;
27 Meridian Mortgage Investors Fund VIII, LLC.

28 22. On August 4, 2010, Judge Steiner appointed Mr. Calvert as the Trustee for

1 the following additional Meridian Companies:

2 Meridian Mortgage Investors Fund VI, LLC

3 Meridian Mortgage Investors Fund IX, LLC, and;

4 Meridian Mortgage Investors Fund X, LLC.

5 23. Additionally, on August 16, 2010, Mr. Berg agreed to place the two
6 following funds into bankruptcy and under the management of Mr. Calvert:

7 Meridian Real Estate Opportunity Fund I, and;

8 Meridian Real Estate Opportunity Fund II.

9 24. On July 27, 2010, King County Sheriff's deputies began seizing Mr. Berg's
10 personal assets at his Mercer Island home and the Meridian office space at 1501 Fourth
11 Avenue, pursuant to a pre judgment writ of attachment obtained by an attorney
12 representing one group of investors. That same day, Mr. Berg filed a petition for personal
13 bankruptcy in *In Re: Frederick Darren Berg*, Case No. 10-18668 (Bankr. W.D. Wash.).
14 As a result of the personal bankruptcy petition, the actions to seize Mr. Berg's personal
15 assets was put on hold and the King County Sheriff did not seize any items.

16 25. On August 19, 2010, the bankruptcy court appointed Diana Carey as the
17 trustee for Mr. Berg's personal estate. As trustee for Mr. Berg's personal estate, Ms.
18 Carey has obtained control of all of Mr. Berg's business interests and assets that were not
19 previously under the control of Mr. Calvert including Meridian Partnership Management,
20 MPM Investor Services, Meridian Greenfield, Mr. Berg's bus companies, several other
21 business interests owned by Mr. Berg, his home on Mercer Island, Washington, two large
22 yachts, two Lear jets, several automobiles, artwork, jewelry and bank accounts.

23 **IV. The Bankruptcy Trustee's Investigation and Follow-up with Mr. Berg**

24 26. Over the past two months, myself and other agents involved in this
25 investigation have had several meetings and conversations with Mr. Calvert and his staff
26 regarding their investigation of the Meridian Funds and Mr. Berg's scheme to defraud
27 investors in those funds. Since his appointment as bankruptcy trustee, Mr. Calvert and his
28 staff have occupied spaced at the Meridian office suite located at 1501 Fourth Avenue, in

1 Seattle, Washington. Mr. Calvert and his staff have gradually been provided access to all
2 of the Meridian funds bank records, accounting records, asset files, investors files and
3 other records. Additionally, Mr. Calvert and his staff have met regularly with Mr. Berg to
4 discuss the Meridian Funds and how he committed the fraud that led to their bankruptcy.
5 I understand that Mr. Berg has been assisting Mr. Calvert and his staff with a review of
6 the bank records and internal accounting records that document his fraud and that Mr.
7 Berg has been assisting with identifying legitimate versus fake assets that he listed in the
8 funds' portfolios. According to Mr. Calvert, this assistance has proved valuable to his
9 investigation and Mr. Calvert wishes to continue working with Mr. Berg to unravel the
10 massive fraud that Mr. Berg committed.

11 27. This process, however, took several weeks and at points involved
12 substantial disagreements with Mr. Berg and his attorneys. Based on conversations that I
13 and FBI Special Agent Ryan Austin have had with Mr. Calvert and his staff, I have
14 learned that they encountered numerous challenges early in their capacity as bankruptcy
15 trustee for the Meridian Funds. Among challenges that they encountered were: Mr.
16 Berg's initial refusal to surrender control of certain bank accounts; Mr. Berg's initial
17 refusal to surrender control over the post office box that receives the mail for all of his
18 companies including the investment funds; Mr. Berg's efforts to open and fund new bank
19 accounts without their knowledge; Mr. Berg's initial refusal to provide access to banking
20 records for Meridian Partnership Management and MPM Investor Services; and
21 incomplete access to records of other Meridian companies including MTR Western, that
22 have received illegal transfers of money from the investment funds.

23 28. Based on conversations with Mr. Calvert and his staff, I understand that Mr.
24 Berg's initial refusal to provide access to the records for Meridian Partnership
25 Management was a substantial obstacle to their investigation. Mr. Calvert and others that
26 I have interviewed have described this company as the "clearinghouse" for the Meridian
27 Funds. I understand that Meridian Partnership Management was the company that both
28 accepted investor deposits and purchased mortgage notes for the benefit of the Meridian

1 Funds. Mr. Calvert repeatedly expressed concern that there could be assets held within
2 the company that were being shielded from him. Mr. Calvert was not provided full access
3 to these records until approximately August 30, 2010, over a month after Mr. Berg's
4 counsel initially indicated that Mr. Berg wished to fully cooperate.

5 29. During this time frame of July 16, 2010, through August 30, 2010, counsel
6 for Mr. Berg indicated that delays in providing access to records and conducting a full
7 law enforcement debriefing with Mr. Berg were the result of disagreements with the
8 bankruptcy trustee over a proposed budget to fund Mr. Berg's criminal defense counsel
9 and bankruptcy counsel as well as conflicts with a variety of vacation schedules.
10 Ultimately, Mr. Berg's original defense counsel withdrew and Mr. Berg obtained
11 approval for court appointed counsel through the Federal Public Defender's Office on or
12 about September 3, 2010.

13 30. On August 19, 2010, Lori Simpson, an employee of Mr. Calvert, told SA
14 Austin about a meeting that she held with Mr. Berg on August 11, 2010, in order to gain
15 his assistance in identifying assets. I have reviewed Ms. Simpson's notes of that meeting
16 as well as SA Austin's notes of his interview with Ms. Simpson contained in an affidavit
17 SA Austin wrote in support of a search warrant in this case. The meeting between Mr.
18 Berg and Ms. Simpson was conducted without the knowledge of Mr. Berg's defense
19 counsel and without the knowledge of the United States Attorney's Office or my office. I
20 know from Mr. Calvert, however, that counsel for Mr. Berg has been aware of the fact
21 that Mr. Berg is working with the bankruptcy trustee daily and has engaged in frequent
22 conversations regarding his businesses.

23 31. Ms. Simpson told SA Austin that in the course of her duties with the trustee,
24 she called the August 11, 2010 meeting with Mr. Berg, to review the loan assets in each
25 fund. During the interview, Mr. Berg told Ms. Simpson that he began misappropriating
26 funds from the Meridian Funds at some point prior to 2007, but claimed the improprieties
27 were minor prior to 2007. Mr. Berg told Ms. Simpson that the misappropriation of cash
28 from the Meridian Funds increased significantly in 2007, when MPMIS, a company that

1 he owned, purchased PR Investor Services, which had acted as the agent and custodian
2 for investors of the Meridian Funds up until that point. After Mr. Berg's acquisition of
3 PR Investor Services, Mr. Berg assumed the role of agent over loan assets held in the
4 Meridian Funds.

5 32. Mr. Berg told Ms. Simpson that his misappropriation of investor funds
6 included the theft of payoffs of notes held in Fund 7. He also told Ms. Simpson that all of
7 the investor funds deposited to Fund 9 and 10 were used for the purpose of "interest
8 payments and redemptions" of other Meridian funds. Mr. Berg further stated that in
9 2010, he sought to raise additional money through the Meridian Real Estate Opportunity
10 Funds and that he believed if he had not defaulted on the other funds, he would have
11 raised \$100 million through these new funds. He told Ms. Simpson that he was grateful
12 that the Real Estate Opportunity Funds had not generated more funding "to make this
13 situation an event bigger mess."

14 33. According to Ms. Simpson, she and Mr. Berg went through a list of each
15 mortgage loan asset that was purportedly owned by two of the Meridian Funds, as of
16 August 11, 2010, and Mr. Berg highlighted all of the loans that were "fake." In one of
17 the Meridian Funds that they reviewed, Mr. Berg identified 22 of the 24 mortgage loans
18 as being fake; only one of the two real loans within the portfolio was still active, the other
19 had been paid off. Of the 98 mortgage loans within the other one of the Meridian Funds
20 that Ms. Simpson and Mr. Berg reviewed together, Mr. Berg identified at least 44 of the
21 mortgage loans as "fake." Mr. Berg identified another 27 mortgage loans for the same
22 portfolio as "paid off" but noted that the pay off proceeds were not always returned to the
23 fund by Meridian Partnership Management, when they were received.

24 34. Mr. Berg explained to Ms. Simpson that he worked alone to create the fake
25 loans that were purportedly held within the portfolios of the specific funds. Mr. Berg told
26 Ms. Simpson that he would prepare the fake loan documents for each of the fake loan
27 files. Mr. Berg told Ms. Simpson that any recording numbers that are contained within
28 the fake loan files were cut and pasted from other documents. In order to create fake

1 appraisals, Mr. Berg told Ms. Simpson that he purchased and used a \$400 appraisal
2 software program. Finally, Mr. Berg told Ms. Simpson that he typed up false title reports
3 for the fake mortgage loan files and noted that, were she to check with the company, none
4 of the policy numbers will exist at the referenced title insurance company. According to
5 Mr. Berg, "fake" loans were booked in Funds 5, 6, and 7.

6 35. Ms. Simpson asked Mr. Berg how he was able to conceal the fake loans
7 during an independent audit of the Meridian Funds in 2006. Mr. Berg responded that he
8 generated all the loan files and loan servicing files for the "fake" loans. He said he
9 generated accounting worksheets for the audit on his own and that he worked around the
10 clock for months preparing for the audit. According to Mr. Berg, the stress from the 2006
11 audit was overwhelming.

12 36. Mr. Berg also told Ms. Simpson that the auditors provided him with a list of
13 mortgage loans that they intended to confirm during the course of their audit. Mr. Berg
14 told Ms. Simpson that he prepared the confirmation letters for the auditor and provided
15 them to the auditor for mailing. Mr. Berg told Ms. Simpson that he then opened 10-12
16 PO Boxes and put the new mailbox numbers in the borrower section of the fake loan files
17 to correspond with the PO Box addresses on the auditor's confirmation letters that he had
18 prepared. Mr. Berg told Ms. Simpson that after he received the confirmations that the
19 auditor had mailed to the PO Boxes that he controlled, he simply completed the
20 confirmations and mailed them back to the auditor.

21 37. At the end of the meeting, Mr. Berg told Ms. Simpson that he would place
22 Meridian Partnership Management in bankruptcy as soon as his lawyer's budget was
23 approved and that the decision not to file was driven by his counsel. He claimed he did
24 not want the Department of Justice to feel he was not cooperating.

25 **V. Search Warrants**

26 38. On August 30, 2010, I participated in the execution of search warrants at
27 Mr. Berg's home on Mercer Island, Washington, as well as the Meridian office suite in
28 Seattle, Washington. During the search of the Meridian office suite, agents seized

1 approximately 250 boxes of documents including investor files, loan files,
2 correspondence and other business records related to the Meridian funds and CS Note
3 Holdco. During the search of Mr. Berg's private office within the Meridian office suite,
4 agents recovered four dozen PO Box applications consistent with what Mr. Berg had
5 described in his interview of August 11, 2010, with Ms. Simpson. The PO Box
6 applications were all submitted in or around August 2007. Agents also recovered what
7 appear to be dozens of fake loan files that Mr. Berg had discussed with Ms. Simpson as
8 well as stacks of blank Commerce Bank account statements. Agents are continuing to
9 review and catalog the thousands of pages of business records seized during these
10 searches and follow-up on leads developed from those documents.

11 39. Agents also discovered records related to the creation of an offshore trust in
12 Belize. Documents recovered during the search included an LLC agreement dated July
13 29, 2009, and signed by Mr. Berg creating a company named DB517 LLC. The
14 documents also included a bill from a company named "Contract Management Inc." in
15 Belize City, Belize dated June 30, 2010, addressed to Darren Berg "for reinstating the
16 DB517 Trust and for all other professional services in relation thereto." Agents also
17 discovered records for a TD Ameritrade account in the name of DB517 LLC. The
18 records did not indicate whether any funds had been transferred overseas.

19 40. Among other things found during the search of Mr. Berg's private office
20 within the Meridian office suite, agents recovered a binder that contained printed copies
21 of what appeared to be e-mail correspondence between Mr. Berg and a person identified
22 as "John Arlett" during the time period of late 2009, through early 2010. The e-mail
23 correspondence discussed negotiations to sell the Meridian funds to a group of investors
24 purportedly represented by "John Arlett." The binder contained dozens of e-mails
25 between Mr. Berg and "John Arlett" organized by month.

26 VI. Mr. Berg's Interview

27 41. On September 20, 2010, Mr. Berg participated in a four hour interview at
28 the United States Attorney's Office in Seattle, Washington at which I was present. During

1 the interview, Mr. Berg was represented by two attorneys from the Federal Public
2 Defenders' office. He was advised that his presence was voluntary and that anything he
3 said would be used against him as part of this prosecution. The entire interview was
4 audio recorded. In addition to myself, Mr. Berg and his attorneys, there were
5 representatives present from the United States Attorney's Office, the Internal Revenue
6 Service - Criminal Investigations Division, and the Washington State Department of
7 Financial Institutions.

8 42. Mr. Berg provided us with a detailed overview of the history of his creation
9 of Meridian Partnership Management and his investment funds. He stated that he started
10 MPM as a business that brokered the purchase of seller-financed contracts for an Oregon
11 bank and a few other customers who purchased seller financed real estate contracts. He
12 stated that around the end of the year 2000, several factors caused this business model to
13 become less effective. Therefore, he created the first of several investment funds to
14 purchase seller-financed real estate contracts.

15 43. According to Mr. Berg, he did not intend to commit a fraud scheme or
16 Ponzi scheme when he created Meridian Mortgage Investors Funds 1, 2, and 3. Mr. Berg
17 claimed Meridian Mortgage Investors Funds 1 and 3 were fully legitimate and that all the
18 investors in those funds were paid off with legitimate earnings from assets purchased by
19 the funds. He admitted, however, that he began stealing money from Fund 2 fairly early
20 in the fund's history. Mr. Berg told us that he quickly became alarmed at the rate of
21 investments flowing into his funds. He stated that he was raising money faster than he
22 could invest the money and that he was soon "snowed under in money." According to
23 Mr. Berg he could not keep up with the inflow of money into Fund 2 and began using the
24 money for other purposes.

25 44. Mr. Berg told us, however, that he believed he was mistaken when he had
26 told the bankruptcy trustee in earlier conversations that his misappropriations from Fund
27 2 had begun as early as 2001. He said that he had recently remembered a particularly
28 profitable series of seller-financed real estate contracts purchased by Fund 2 that he now

1 believes justified his draws from Fund 2 for the first several years. Mr. Berg explained
2 that he believed that because Fund 2 was profitable for several years, he was justified in
3 taking a salary and a portion of the fund's profits. Therefore, he now believes his use of
4 money from Fund 2 did not become illegal until later.

5 45. According to Mr. Berg, sometime in 2004, Funds 1 and 3 were closed and
6 all investors were paid off. Mr. Berg admitted that he did not close Fund 2 because he
7 had stolen from Fund 2 and could not close it without admitting the Fund had become a
8 Ponzi. Therefore, this Fund was continued through 2010, when he was forced into
9 involuntary bankruptcy.

10 46. Mr. Berg stated that when he closed Funds 1 and 3 in 2004, he began
11 opening new funds including Meridian Mortgage Investors Funds 5, 6, 7, and 8. He
12 stated that many of the investors in Funds 1 and 3 were rolled into the new funds and
13 some of the assets of Funds 1 and 3 were transferred to the new funds. Mr. Berg claimed
14 he attempted to create a new model for compensating those who promoted his investment
15 funds in an effort to slow down the inflow of money to the funds. Mr. Berg claimed that
16 he was attempting to avoid his earlier problem of raising more money than he could
17 invest. However, he admitted his efforts failed and he was soon raising millions of
18 dollars more than he could invest. According to Mr. Berg there simply were not enough
19 high quality seller-financed real estate contracts in existence to support the amount of
20 money coming into his investment funds. Therefore, he continued to steal his investors
21 money.

22 47. Mr. Berg stated that by 2008, he was in "survival mode." He stated that in
23 this "post-Madoff" time period, he went into a panic. According to Mr. Berg he had been
24 "cooking the books" for years including: leaving mortgages on the books that had been
25 paid off, booking mortgages that never existed, reporting mortgages as current when they
26 were late or in default and filing false reports with investors and auditors. Mr. Berg
27 discussed the fake loan files he had admitted to Ms. Simpson and told us about how he
28 worked for months creating false records in preparation for audits. He also told us that

1 Meridian Mortgage Investors Funds 9 and 10 and Meridian Real Estate Opportunity
2 Funds 1 and 2 were used solely to pay earlier investors in the waning days of his scheme.

3 48. Mr. Berg told us that the binder discovered in his office in which we found
4 e-mail correspondence between him and "John Arlett" was entirely fake. He said he
5 fabricated the correspondence in an effort to convince others that he was close to signing
6 a deal to sell the Meridian funds. According to Mr. Berg, "John Arlett" was a false name
7 he created and the e-mail account was under his control. Therefore, the entire binder of
8 communications was simply a conversation he fabricated between himself and his
9 alter-ego.

10 49. Mr. Berg estimated that over the course of the funds, he had raised over \$1
11 billion and returned over \$800 million to investors. He stated, however, that this included
12 every instance in which an existing investor rolled their investment into a new account or
13 re-invested their interest earnings. Mr. Berg stated that he estimated actual cash
14 investments raised were approximately \$350 million. He also estimated that victims had
15 lost between \$50 and \$100 million as a result of his fraud.

16 50. During the interview, we asked Mr. Berg if he had any offshore accounts or
17 if he had done anything to hide assets. Mr. Berg stated that in approximately March
18 2010, he was about to get caught and he confided in a local real estate developer with
19 whom he was friends. This developer introduced him to an attorney who specialized in
20 protecting assets through trusts in Belize. According to Mr. Berg he had the attorney
21 create the DB517 trust but never transferred any funds to the trust. Mr. Berg admitted
22 that he had opened an account at TD Ameritrade in the name of DB517, and stated that he
23 deposited approximately \$200,000.00 into this account. However, he claimed all but
24 approximately \$2,000.00 of this money had been transferred back to his businesses.

25 51. Mr. Berg agreed to waive his attorney client privilege and allow us to speak
26 to the attorney who created the DB517 trust to confirm these facts. As of the date of this
27 affidavit, however, Mr. Berg has not provided us with the promised waiver of attorney-
28 client privilege. As part of our investigation, we have reviewed wire transfer records

1 received from many of Mr. Berg's banks and we have not found any transfers that appear
2 related to the Belize trust. However, we are continuing to receive additional records from
3 the dozens of accounts that have been under Mr. Berg's control over the past decade and I
4 cannot be certain as to whether any assets have been transferred overseas.

5 **VII. Additional Follow-Up with Bankruptcy Trustee**

6 52. On September 27, 2010, I met again with Mark Calvert and his staff to
7 review their continuing work on the Meridian bankruptcy. According to Mr. Calvert, his
8 staff was continuing to conduct a forensic accounting of the Meridian Funds bank
9 records. Although they had received bank records for many of Mr. Berg's accounts, they
10 had yet to receive records for dozens of accounts related to their investigation. Mr.
11 Calvert stated that he and his staff were meeting regularly with Mr. Berg and he was
12 continuing to assist them with recreating the history of the Meridian funds and his
13 fraudulent scheme. Mr. Calvert stated that Mr. Berg had been valuable in categorizing
14 the types of inflows and outflows of funds as recorded in the Quickbooks accounting
15 records for the funds as well as his personal accounts. According to Mr. Calvert, Mr.
16 Berg had stated that the Quickbooks records were an accurate record of the financials for
17 his businesses and his personal interests. As part of their investigation, Mr. Calvert and
18 his staff have been reconciling the Quickbooks data with available bank records.
19 However, the availability of bank statements has delayed much of their forensic analysis.

20 53. Mr. Calvert told me that Mr. Berg had recently backed off of earlier
21 statements in which he had admitted Fund 2 had been fraudulent since 2001. Although
22 Mr. Berg had told Mr. Calvert that he used \$4.8 million from Fund 2 to purchase buses in
23 2001, Mr. Berg now believed that Fund 2 was profitable through 2003, and therefore,
24 would not admit this was theft. Mr. Calvert commented that Mr. Berg "would not admit
25 whether a theft is a theft, until faced with conclusive accounting." On October 15, 2010,
26 Mr. Calvert called me and told me that he had recently obtained additional bank records
27 for the Meridian Funds dating back to as early as 2001. According to Mr. Calvert, the
28 bank records showed Mr. Berg's first use of investor funds to purchase buses may not

1 have occurred until 2003, or 2004. However, Mr. Calvert stated that he is still waiting to
2 receive bank records for several accounts related to his investigation.

3 54. During our September 27, 2010 conversation, Mr. Calvert also reviewed his
4 accounting work to date. According to Mr. Calvert, his forensic accounting was based
5 largely on Mr. Berg's Quickbooks data with some reconciliation with bank records where
6 available. According to Mr. Calvert, the Quickbooks data available to him covered the
7 period of 2006 through the present. Mr. Calvert stated that his analysis indicated Mr.
8 Berg had raised approximately \$350 million dollars through the Meridian Mortgage
9 Investors Funds and the Meridian Real Estate Opportunity Funds from approximately
10 1,000 investors. As of September 27, 2010, he estimated the total amount still owed to
11 investors, including accrued interest not paid, was \$210,934,160.00. He further estimated
12 that accrued interest not paid represented \$33,231,194.00 of this amount and that Mr.
13 Berg had already paid \$40,615,904.00 back to investors in the form of interest payments.
14 Therefore, the total amount of principal still owed to investors was estimated to be
15 \$137,087,062.00. Mr. Calvert told me that Mr. Berg had spent approximately
16 \$19,757,547.00 on the purchase of mortgage loans and real estate as promised in the
17 funds' promotional materials, but the remainder of the money (\$117,329,515.00) had
18 been spent on Mr. Berg's personal interests and to cover the expenses of the funds. This
19 included over \$32 million of the investors money that Mr. Berg spent on his bus
20 company, over \$11 million that he spent on Meridian Greenfield (his construction
21 company) and his Mercer Island home, over \$5 million spent on Lear jets, approximately
22 \$3 million spent on yachts, and over \$7 million used towards various loan payments. Mr.
23 Calvert stated that approximately \$45.5 million had yet to be categorized, but he expected
24 this would be done, with Mr. Berg's assistance, within the next several weeks.

25 **VIII. Wire Transfer in Furtherance of the Scheme to Defraud**

26 55. As part of our investigation, we have received records of wire transfers of
27 funds into and out of various accounts controlled by Mr. Berg at The Commerce Bank of
28 Washington. Those records include a wire transfer from the Wells Fargo Bank account of

1 C.B. to Commerce Bank account of MPM Investor Services (FBO MMIFII) in the
2 amount of \$495,000.00 on May 27, 2010. As part of my investigation, I have worked
3 with investigators from the Washington State Department of Financial Institutions. On
4 July 22, 2010, enforcement attorney Ed Thunnen interviewed C.B. and learned that the
5 \$495,000.00 wire transfer from her account to the MPM Investor Services account at
6 Commerce Bank represented an investment into Meridian Mortgage Investors Fund VII.
7 According to the Commerce Bank records the above wire was a FedWire. I know from
8 my training and experience that all FedWire wire transfers are routed through the Federal
9 Reserve Bank in New Jersey. Therefore, this wire transmission traveled in interstate
10 commerce.

11 **IX. Money Laundering**

12 56. I know from my interviews with Mr. Calvert that Mr. Berg used several
13 bank accounts at Commerce Bank in the name of Meridian Partnership Management, Inc.
14 for the processing of funds he received from investors. According to Mr. Calvert, by
15 2007, the Meridian investors funds were operating as a Ponzi scheme - using new
16 investor money to pay off old investors and to fund Mr. Berg's personal expenses.
17 Forensic Accountant Susan Dayton with the Federal Bureau of Investigation has been
18 assisting with this investigation by reviewing financial records related to Mr. Berg's
19 investment funds and other businesses. According to Ms. Dayton, on May 10, 2007, Mr.
20 Berg transferred \$1,000,000.00 from the Commerce Bank account of Meridian
21 Partnership Management, Inc. to his personal account at Commerce Bank. Ms. Dayton
22 reviewed the source of funds for this transfer and found that on May 9, 2007, the balance
23 in the Meridian Partnership Management account was approximately \$98,000.00. On
24 May 10, 2007, however, prior to moving \$1,000,000.00 from the MPM Inc. account to his
25 personal account, Mr. Berg made four transfers into the Meridian Partnership
26 Management account as follows: 1) a transfer in the amount of \$109,460.00 from
27 Meridian Mortgage Investor Fund 6; 2) a transfer in the amount of \$123,950.00 from
28 Meridian Mortgage Investors Fund 8; 3) a transfer in the amount of \$197,525.00 from

1 Meridian Mortgage Investor Fund 2, and; 4) a transfer in the amount of \$576,225.00 from
2 Meridian Mortgage Investor Fund 7. Therefore, I believe the source of funds for the
3 \$1,000,000.00 transfer to Mr. Berg's personal account constituted proceeds of the scheme
4 to defraud.

5 **X. Mr. Berg's Continuing Efforts to Conceal Assets and Launder Proceeds of the**
6 **Scheme to Defraud**

7 57. On the afternoon of October 13, 2010, Andrew Wilson, a consultant
8 working with bankruptcy trustee Diana Carey contacted me with new information
9 regarding Mr. Berg's personal bankruptcy estate. Mr. Wilson told me that he had recently
10 discovered a new bank account in Mr. Berg's name at Union Bank. I know that on
11 September 20, 2010, during our interview with Mr. Berg, he was specifically asked to list
12 all bank accounts that he continued to control. Mr. Berg listed several accounts, but did
13 not say anything to us about an account at Union Bank.

14 58. I interviewed Mr. Wilson on October 13, 2010, and again on October 15,
15 2010, to obtain additional details of this discovery. Mr. Wilson told me that he had
16 discovered the Union Bank account on or about September 30, 2010, when he found a
17 record of a wire transfer at Mr. Berg's Mercer Island home, which showed a wire transfer
18 on September 16, 2010, in the amount of \$145,000.00 from an account in the name of
19 DB517 LLC at TD Ameritrade to an account in the name of F Darren Berg at Union
20 Bank. Mr. Wilson told me that after discovering these two accounts, the bankruptcy
21 trustee had both accounts frozen and sought records of the accounts. Those records show
22 that Mr. Berg opened an account at Union Bank on September 9, 2010. According to Mr.
23 Wilson, Mr. Berg had never disclosed either of these accounts (the account at Union Bank
24 or the account at TD Ameritrade) to the bankruptcy trustee and had not listed these
25 accounts in his bankruptcy schedules. In addition, Mr. Berg had never told the
26 bankruptcy trustee that he owned an interest in an LLC named DB517, and had not listed
27 this company on his bankruptcy schedule. I have reviewed records from TD Ameritrade
28 for an account in the name of DB517 LLC, and learned that this account was opened in
February 2010, and that Mr. Berg is the sole signatory on the account.

1 59. I have reviewed the bankruptcy schedules Mr. Berg filed in his personal
2 bankruptcy case - *In Re: Frederick Darren Berg*, Case No. 10-18668 (Bankr. W.D.
3 Wash.). Those schedules were filed on August 24, 2010. In the section for bank
4 accounts, Mr. Berg listed accounts at Commerce Bank of Washington, Pacific Western
5 Bank and Wells Fargo Bank. In an attachment listing interests in partnerships or joint
6 ventures, he lists numerous LLCs including his investment funds, several bus companies,
7 and a variety of other companies, but he does not list an interest in DB517 LLC.

8 60. According to Mr. Wilson, on Tuesday October 5, 2010, after the accounts
9 were frozen, he asked Mr. Berg about the account at Union Bank, DB517 LLC and the
10 TD Ameritrade account. Mr. Berg told Mr. Wilson that he did not think he had to
11 disclose the Union Bank account because it was an account he opened after he filed
12 bankruptcy. Mr. Berg also provided Mr. Wilson with a spreadsheet for the TD
13 Ameritrade account that showed a deposit of \$225,000.00 into the TD Ameritrade
14 account on August 3, 2010. According to Mr. Wilson, Mr. Berg initially told him that
15 this \$225,000.00 came from a variety of sources. However, when pressed for more
16 details, Mr. Berg told Mr. Wilson that the money came from two consulting contracts he
17 had signed in early August 2010.

18 61. Mr. Berg provided copies of the contracts to Mr. Wilson and told him that
19 DB517 LLC was a company he established to provide consulting services. According to
20 Mr. Wilson, Mr. Berg said he had not disclosed his interest in DB517 LLC because it was
21 created after he filed for bankruptcy and constituted a post-petition asset. I know,
22 however, that DB517 LLC was created prior to Mr. Berg's bankruptcy petition and was in
23 fact created to hide assets overseas as Mr. Berg admitted during his interview on
24 September 20, 2010.

25 62. According to Mr. Wilson, Mr. Berg also claimed the \$225,000.00 deposit
26 into the DB517 LLC account at TD Ameritrade represented post-petition earnings that he
27 did not believe he was required to disclose to the bankruptcy trustee. Mr. Wilson
28 explained to me that pursuant to an order entered in Mr. Berg's personal bankruptcy

1 proceedings, he was entitled to keep post-petition earnings (earnings for work after the
2 date he filed his petition for personal bankruptcy).

3 63. Mr. Wilson provided me with copies of the two consulting contracts which
4 are both dated August 1, 2010. The contracts are identical with the exception of the name
5 of the company purportedly hiring Mr. Berg and the amount of compensation called for in
6 the contract. Both contracts name DB517 LLC as the "consultant" and Mr. Berg as the
7 manager of DB517. Each contract calls for Mr. Berg to consult on issues related to the
8 ownership of a corporate jet. The first contract is purportedly with K6 Aircraft Leasing
9 and includes a compensation agreement calling for a payment of either \$10,000.00 a
10 month or \$120,000.00 total for twelve months with a discount of 10% for prepayment of
11 the compensation. The contract with K6 Aircraft Leasing is purportedly signed by the
12 manager of K6 Aircraft Leasing, Ruth Kelly. The other contract is purportedly with
13 Boards Aircraft LLC and includes a compensation agreement calling for a payment of
14 either \$25,000.00 a month or \$150,000.00 for six months with a discount of 10% for
15 prepayment of compensation. The contract with Boards Aircraft LLC, is purportedly
16 signed by "Greg Clauson." Mr. Berg told Mr. Wilson that the \$225,000.00 deposit into
17 the TD Ameritrade Account of DB517 LLC on August 3, 2010, was money prepaid to
18 him by K6 Aircraft Leasing, LLC and Boards Aircraft LLC. Mr. Wilson told me that Mr.
19 Berg had not disclosed the account at TD Ameritrade to the bankruptcy trustee or the
20 \$225,000.00 deposit before this discovery.

21 64. That same day, October 13, 2010, I interviewed Greg Clausen, the Director
22 of Operations for a company named Aero Air. Mr. Clausen told me that Boards Aircraft
23 is a company owned by Mark Wattles, and that Boards Aircraft owns an airplane that Mr.
24 Clausen flies pursuant to his duties as a pilot for Aero Air. According to Mr. Clausen,
25 Boards Aircraft, through Mr. Wattles, has hired Aero Air for services. Mr. Clausen told
26 me that Boards Aircraft is a small company with an owner, a couple of pilots, and a
27 couple of accountants. He said the total number of employees was probably less than ten.

28 65. I asked Mr. Clausen if he and/or Boards Aircraft LLC had recently hired

1 Darren Berg. Mr. Clausen stated that Boards Aircraft had used Mr. Berg's airplane
2 approximately three times in the past three years and, therefore, in that sense, Mr. Berg
3 had been hired by Boards Aircraft. However, he stated that the last time Boards Aircraft
4 used Mr. Berg's airplane was in the Spring of 2010. I then specifically asked Mr.
5 Clausen if he had hired Mr. Berg in the past few months to perform any employment or
6 consulting duties for Boards Aircraft, LLC. Mr. Clausen said he "did not think" he had
7 hired Mr. Berg or agreed to use Mr. Berg's services as a consultant. Mr. Clausen also
8 stated that he was "nearly positive" that he did not sign a contract in the past few months
9 hiring Mr. Berg as an employee or a consultant. Mr. Clausen said he knows Mr. Berg and
10 was a friend of Mr. Berg. Mr. Clausen said he was not sure whether Mr. Wattles could
11 have entered a consulting contract with Mr. Berg. I sent a copy of the contract to Mr.
12 Clausen on October 15, 2010, and on October 18, 2010, Mr. Clausen called me and told
13 me that the signature on the contract was not his signature and his name was actually
14 misspelled on the contract.

15 66. On October 14, 2010, I contacted Mark Wattles, the owner of Boards
16 Aircraft LLC. Mr. Wattles told me that Mr. Berg has rented his airplane a couple of times
17 and he had in turn allowed Mr. Wattles to use his airplane five or six times. According to
18 Mr. Wattles, he had never hired Mr. Berg for services and had never agreed to pay Mr.
19 Berg \$25,000.00 per month for anything. Mr. Wattles said he had never engaged in any
20 transactions with Mr. Berg or any entity associated with Mr. Berg other than trading the
21 use of their respective airplanes. He said he would not even consider hiring Mr. Berg as a
22 consultant to Boards Aircraft LLC because he does not believe Mr. Berg knows anything
23 about airplanes. According to Mr. Wattles, Mr. Clausen is a pilot who works for him and
24 Mr. Clausen does not have any signing authority for Boards Aircraft LLC.

25 67. I have attempted to locate a company named K6 Aircraft Leasing or the
26 listed manager of the company, but I have been unable to locate any address or contact
27 information. I do not know if K6 Aircraft Leasing is a legitimate company.

28 68. I have reviewed records from TD Ameritrade related to Mr. Berg's account

1 in the name of DB517 LLC. I learned that on August 2, 2010, this account received an
2 incoming wire transfer in the amount of \$225,000.00 from an account at Bank of America
3 in the name of Meridian-Greenfield LLC.

4 69. I know from records recovered during the search warrant, conversations
5 with the bankruptcy trustee Mark Calvert, and conversations with Mr. Wilson, that
6 Meridian-Greenfield is a company owned and controlled by Mr. Berg that was
7 purportedly established to build homes. I also know based on my conversations with Mr.
8 Calvert, that Mr. Berg misappropriated investors' money to fund the activities of
9 Meridian-Greenfield. In addition, I know that Mr. Berg used accounts in the name of
10 Meridian Greenfield to fund the purchase and remodeling of his home on Mercer Island,
11 Washington.

12 70. I have reviewed records from the Bank of America account of Meridian
13 Greenfield and learned that on July 29, 2010, Mr. Berg deposited a cashier's check in the
14 amount of \$398,773.57 into this account. This deposit was the source of the funds that
15 made up the \$225,000.00 wire transfer to Mr. Berg's DB517 LLC account at TD
16 Ameritrade. The cashier's check dated July 29, 2010, was drawn on Commerce Bank and
17 had a memo regarding "Lake Union Escrow." On October 15, 2010, FBI Forensic
18 Accountant Susan Dayton contacted Commerce Bank and learned that this cashier's
19 check payable to Meridian Greenfield was purchased by Lake Union Escrow.

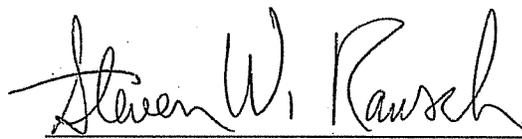
20 71. On October 15, 2010, Special Agent Daniel Bennet contacted Lake Union
21 Escrow and learned that the \$398,773.57 cashier's check represented the proceeds of a
22 property sale. Lake Union Escrow provided copies of the closing file related to that sale.
23 Agent Bennet and I have reviewed those records and learned that the purchase and sale
24 agreement related to a home in the Magnolia area of Seattle, Washington and was
25 initiated on July 19, 2010, between Meridian Greenfield LLC as the seller and Soleil LLC
26 as the buyer. All Meridian Greenfield documents in the file are signed by Darren Berg.
27 The documents from Lake Union Escrow indicate the sale closed on July 28, 2010.

28 72. I know from Mr. Wilson that Meridian Greenfield and all the assets owned

1 by Meridian Greenfield are under the control of the personal bankruptcy trustee in the
2 matter of *In Re: Frederick Darren Berg*, Case No. 10-18668 (Bankr. W.D. Wash.).
3 According to Mr. Wilson, any assets belonging to Meridian Greenfield are the property of
4 the bankruptcy estate and should have been disclosed to the bankruptcy trustee. Mr.
5 Wilson told me that he and Ms. Carey have repeatedly explained these requirements to
6 Mr. Berg. During our interview on October 15, 2010, Mr. Wilson reviewed a copy of the
7 \$398,773.57 cashier's check and he said that this should have been disclosed to the
8 bankruptcy trustee and that this money constituted an asset of the bankruptcy estate.

9 **CONCLUSION**

10 73. Based on the above facts, I respectfully submit that there is probable cause
11 to believe that FREDERICK DARREN BERG, did knowingly and intentionally
12 committed the crimes of wire fraud in violation of Title 18, United States Code, Section
13 1343; Money Laundering in violation of Title 18, United States Code, Section 1957; and
14 Bankruptcy Fraud (Asset Concealment) in violation of Title 18, United States Code,
15 Section 152(1).

16 
17 STEVEN RAUSCH, Complainant
18 Special Agent
19 Federal Bureau of Investigation

20 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
21 presence, the Court hereby finds that there is probable cause to believe the defendant
22 committed the offense set forth in the Complaint.

23 DATED this 19 day of October, 2010.

24 
25 BRIAN A. TSUCHIDA
26 United States Magistrate Judge