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OCT 13 2010

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

FREDERICK DARREN BERG,

Defendant.

NO. *CR10-310 JLR*

INFORMATION

(FELONY)

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNTD 1-9

(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.

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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

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

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

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

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

1 portfolios.

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

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

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

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

28 15. It was further part of the scheme and artifice to defraud that FREDERICK

1 DARREN BERG falsely claimed that the Meridian Real Estate Investment Funds would
2 use investor money solely to purchase real estate and pay management and servicing fees
3 to BERG and his related companies. In truth and in fact, as FREDERICK DARREN
4 BERG then well knew, he created the Meridian Real Estate Investment Funds for the
5 purpose of raising money to make interest payments and redemption payments to
6 investors in other funds and to fund his own personal expenses.

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

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

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

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

28 19. It was further part of the scheme and artifice to defraud that FREDERICK

1 DARREN BERG falsely represented that he was negotiating with a third party who was
2 purportedly going to purchase the notes from CS Note Holdco at a greater price than CS
3 Note Holdco was to pay the Bellevue, Washington-based investment advisory firm. In
4 truth and in fact, as FREDERICK DARREN BERG then well knew, there was no third
5 party negotiating for the purchase of the notes.

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

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

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

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

20 22. On or about the below-listed dates, within the Western District of
21 Washington and elsewhere, FREDERICK DARREN BERG, for the purpose of executing
22 the aforementioned scheme and artifice to defraud and to obtain money by means of false
23 and fraudulent pretenses, representations, promises and omissions of material facts, and
24 attempting to do so, did knowingly and intentionally cause to be transmitted, in interstate
25 commerce by means of a wire communication, certain signs, signals, and sounds, that is,
26 wire transfers of funds, between investor accounts and accounts under his control, each of
27 which was transmitted in interstate commerce via the Fedwire system in New Jersey to
28 the Western District of Washington:

| Count | Date | Wire Transaction | Amount |
|-------|------------|--|--------------|
| 1 | 04/15/2005 | Wire transfer from the Citibank account of M.S. which represented an investment into Meridian Mortgage Investors Fund VII, to Commerce Bank account ***4410 of MPM Investor Services (FBO MMIFII) | \$200,000.00 |
| 2 | 03/02/2006 | Wire transfer from the Keybank account of the J.A. Trust, which represented an investment into Meridian Mortgage Investors Fund VII, to Commerce Bank account ***4429 of Meridian Mortgage Investors Fund VIII | \$200,000.00 |
| 3 | 10/27/2006 | Wire transfer from the Mellon bank account of the A.S. Trust, which represented an investment into Meridian Mortgage Investors Fund VII, to Commerce Bank account ***4410 of MPM Investor Services (FBO MMIFII) | \$150,000.00 |
| 4 | 02/05/2007 | Wire transfer from the Citibank account of J.D. which represented an investment into Meridian Mortgage Investors Fund VI, to Commerce Bank account ***2812 of Meridian Mortgage Investors Fund VI, LLC | \$200,000.00 |
| 5 | 06/04/2007 | Wire transfer from the Wells Fargo account of K. & K.H. which represented an investment into Meridian Mortgage Investors Fund VIII, to Commerce Bank account ***4429 of Meridian Mortgage Investors Fund VIII, LLC | \$300,000.00 |
| 6 | 04/30/2009 | Wire transfer from the Wells Fargo account of D.R. which represented an investment into Meridian Mortgage Investors Fund II, to Commerce Bank account ***4356 of Meridian Mortgage Investors Fund II, LLC | \$650,000.00 |
| 7 | 09/18/2009 | Wire transfer from the Wachovia Bank account of K.K., which represented an investment into CS Note Holdco, to Commerce Bank account ***6894 of CS Note Holdco | \$500,000.00 |

| | | | | |
|---|---|------------|--|--------------|
| 1 | 8 | 04/26/2010 | Wire transfer from the Viking Community Bank account of R.W., which represented an investment into Meridian Mortgage Investors Fund IX, to Commerce Bank account ***4313 of Meridian Partnership Management Inc. | \$236,550.00 |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | 9 | 05/27/2010 | Wire transfer from the Wells Fargo Bank account of C.B., which represented an investment by C.B. into Meridian Mortgage Investment Fund II, to Commerce Bank account ***4410 of MPM Investor Services (FBO MMIFII) | \$495,000.00 |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |

10 All in violation of Title 18, United States Code, Sections 1343 and 2.

11 **COUNT 10**

12 **(MONEY LAUNDERING)**

13 On or about January 1, 2008, within the Western District of Washington,
 14 FREDERICK DARREN BERG did knowingly engage in a monetary transaction in
 15 criminally derived property of a value greater than \$10,000.00 and derived from specified
 16 unlawful activities - namely, wire fraud, a violation of Title 18, United States Code,
 17 Section 1343, to wit: a transfer of \$2,500,000.00 from the Commerce Bank account of

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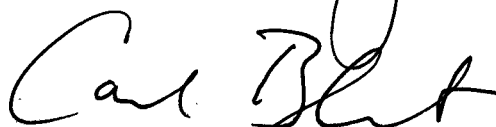
1 Meridian Partnership Management, Inc. to the Commerce Bank account of FREDERICK
2 DARREN BERG.

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

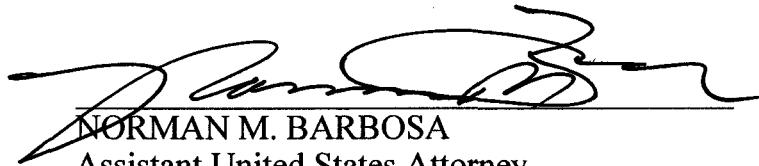
4 DATED this 13TH day of October, 2010.

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8 JENNY A. DURKAN
9 United States Attorney

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11 

12 CARL BLACKSTONE
13 Assistant United States Attorney

14
15 

16 NORMAN M. BARBOSA
17 Assistant United States Attorney