

AFFIDAVIT

I, Michael McMahon, being duly sworn, hereby depose and state:

1. I, Michael McMahon, have been a Special Agent (SA) of the Federal Bureau of Investigation (FBI) since July 1991, and have conducted investigations regarding white collar crime violations. I have previously been involved in criminal investigations concerning violations of federal laws. Those investigations included, but are not limited to, financial institution fraud, fraud against the government, bankruptcy fraud, wire and mail fraud, and money laundering. Your affiant possesses undergraduate degrees in accounting and economics from the University of Maryland and is a Certified Public Accountant. Since joining the FBI your affiant has attended specialized training courses in financial analysis, fraud investigation methods, money laundering, asset forfeiture, and advanced white collar crime matters.

2. The statements in this affidavit are based upon my experience and background as a SA of the FBI, upon my investigation and the investigation of other Federal Agents, and upon my review of the pertinent evidence collected to date. Since this affidavit is being submitted for the limited purpose of outlining your **affiant's interaction with Kent Davis, your affiant has not included each and every fact known to the affiant concerning the activities of Michael Raymond Agnew and Barbara Murphy Agnew (Michael and Barbara Agnew), doing business as AGM Development Incorporated (AGM).** Your affiant has set forth only those facts necessary to establish that the defendants, Michael and Barbara Agnew and their attorneys, James A. Brocoletti, Esq. and Jon Babineau, Esq., hereinafter referred to as Brocoletti and Babineau respectively, had knowledge of Kent Davis as a potential



witness and were aware of statements Kent Davis made to your affiant prior to the date Michael and Barbara Agnew stood trial on April 9, 2003.

3. Beginning on October 10, 2002, your affiant was assigned as the FBI case agent responsible for the investigation of the defalcation of Resource Bank by Michael and Barbara Agnew, doing business as AGM. The defalcation scheme involved the sale of fictitious construction contract account receivables to Resource Bank as part of a financing program known as the Cash Flow Maximizer (CFM). In its simplest terms, the CFM was a financing vehicle offered by Resource Bank to account holders engaged in business enterprises generating accounts receivable. The invoices sold by Michael and Barbara Agnew to Resource Bank purported to represent valid accounts receivable due and owing to AGM. In reality, the invoices Michael and Barbara Agnew sold to the bank were fraudulent, containing references to work that had not been completed and account receivable balances that were not valid.

4. During the weeks leading up to trial of Michael and Barbara Agnew, your affiant contacted all known witnesses for purposes of issuing trial subpoenas and reviewing Grand Jury testimony. During the week of March 10, 2003 Robin Lupton, a witness for the prosecution, identified Kent Davis, a former employee of AGM, as a potential witness who would testify on behalf of Michael and Barbara Agnew. Davis' identity and employment were confirmed by your affiant through contact with Babineau. Babineau informed your affiant that Kent Davis was a potential witness who might testify on behalf of

Michael and Barbara Agnew. In fact, Babineau had requested the clerks office to issue a trial subpoena to Kent Davis for the trial of Michael and Barbara Agnew.

5. Having identified Kent Davis as a potential defense witness, your affiant telephonically contacted Davis at his place of employment sometime during the period of March 17 through April 4, 2003. Davis consented to be interviewed, whereupon your affiant, Assistant United States Attorney (AUSA) Stephen Haynie and AUSA Michael Smythers met with Davis and discussed his recollection of the operation of AGM. During the interview Davis described his relationship with Michael and Barbara Agnew and his various work assignments while at AGM. When asked to comment on matters affecting the CFM and Resource Bank, Davis indicated he was not involved in processing accounting records and could offer no comment regarding the content, or accuracy of any information provided by Michael and Barbara Agnew to Resource Bank.

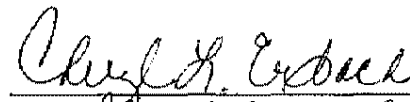
6. After your affiant completed this interview with Kent Davis, AUSA Haynie advised Babineau of the results and informed Babineau that Davis had not provided any information relevant to issues that would be addressed during the pending trial of Michael and Barbara Agnew. No further action was taken by your affiant with regard to Kent Davis' interview and your affiant had no further contact with Kent Davis.

7. Interview notes taken by your affiant pursuant to the Davis interview were initially stored with other records that had been prepared for trial. These notes were subsequently destroyed at the conclusion of the trial.

8. In conclusion, your affiant states no information provided by Kent Davis was withheld from those persons responsible for preparing a defense for Michael and Barbara Agnew. Your affiant further states no evidence was withheld from review by Michael Raymond Agnew, Barbara Murphy Agnew, James A. Brocoletti, Esq., Jon Babineau, Esq., and or any member of the defense team at any time.


Michael F. McMahon, SA, FBI

Subscribed and sworn to before me this 9th day of February 2007 at 1:00 AM (PM).


my Commission expires August 31, 2009