

1 PHILLIP A. TALBERT
United States Attorney
2 TARA AMIN
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
5 Facsimile: (916) 554-2900

FILED
Dec 01, 2023
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SEALED

6 AMANDA N. LISKAMM
Director
7 RACHAEL L. DOUD
Assistant Director
8 ANDREW K. CRAWFORD
9 FRANCISCO L. UNGER
Trial Attorneys
10 Consumer Protection Branch
Civil Division
11 U.S. Department of Justice
450 5th Street, NW
12 Washington, DC 20530
13 Telephone: (202) 451-7301
Email: andrew.k.crawford@usdoj.gov

14 Attorneys for Plaintiff United States of America

15 UNITED STATES DISTRICT COURT

16 EASTERN DISTRICT OF CALIFORNIA

17
18 United States of America,

19 Plaintiff,

20 v.

21 CB SURETY LLC, a North Carolina limited
22 liability company; PEAK BAKERY LLC, a
North Carolina limited liability company;
23 CASCADES POINTE AT CLEMSON, LLC, a
24 South Carolina limited liability company; KP
TESTING, LLC, a Virginia limited liability
25 company; THOMAS EIDE, in his individual
26 capacity and as an officer of various corporate
27 capacity and as an officer of various corporate

Civil Case No. 2:23-cv-2812 TLN DB

COMPLAINT FOR TEMPORARY
RESTRAINING ORDER, PRELIMINARY
AND PERMANENT INJUNCTIONS, AND
OTHER EQUITABLE RELIEF

FILED UNDER SEAL PURSUANT TO
ORDER OF THE COURT
DATED _____

1 defendants; ARIC GASTWIRTH, in his
2 individual capacity and as an officer of various
3 corporate defendants; RESELLER
4 CONSULTANTS, INC., a Nevada corporation;
5 AMBRAGOLD, INC., a Florida corporation;
6 STEPHEN CHRISTOPHER, in his individual
7 capacity and as an officer of various corporate
8 defendants; MOTION MEDIA MARKETING,
9 INC., a California corporation; SJC
10 FINANCIAL SERVICES, INC., a California
11 corporation; BRYAN BASS, in his individual
12 capacity and as an officer of various corporate
13 defendants; THINK PROCESSING LLC, a
14 Wyoming corporation; BASS BUSINESS
15 CONSULTANTS, an India corporation.

16 Defendants.

17 Plaintiff, the United States of America, by and through the undersigned attorneys, hereby
18 alleges as follows:

19 **I. NATURE OF THIS ACTION**

20 1. The United States brings this action for a temporary restraining order, preliminary
21 and permanent injunctions, and other equitable relief pursuant to 18 U.S.C. § 1345 to enjoin the
22 ongoing commission of criminal wire fraud and bank fraud and conspiracy to commit those
23 offenses in violation of 18 U.S.C. §§ 1343, 1344, and 1349. The United States seeks to prevent
24 continuing and substantial injury to the victims of Defendants' fraud.

25 2. Defendants are members of a transnational network of fraudsters engaged in an
26 ongoing bank and wire fraud scheme that since at least 2017 has targeted and victimized
27 financial institutions and consumers across the United States.

3. Defendants process payments for merchant clients that are engaged in fraudulent,
illegal, or high-risk activities including the sale of illegal drugs, gambling, technical-support
scams, and making unauthorized charges to consumers' bank and credit card accounts.

Defendants operate the scheme by creating and controlling sham companies to launder money

1 through seemingly legitimate but fake companies to give their merchant clients access to the
2 banking system.

3 4. Defendants also use sham transactions to decrease the apparent rate of
4 “chargebacks”—*i.e.*, instances in which transactions are reversed by the consumers’ bank
5 because, for example, the consumer has reported the charge as unauthorized—by artificially
6 inflating the total number of charges a merchant appears to process. This deceptive tactic allows
7 Defendants’ merchant clients to maintain bank accounts despite high chargeback rates, which
8 merchant banks track as a key indicator of fraud.

9 5. Over the course of the scheme, Defendants have processed many millions of
10 dollars in payments. Between July 2020 and June 2023, for example, Defendants, through
11 transaction laundering, processed approximately \$97 million in payments for their merchant
12 clients, thereby causing losses to consumers, and fraudulently causing federally insured banks to
13 risk substantial losses.

14 6. For the reasons stated herein, the United States requests injunctive relief pursuant
15 to 18 U.S.C. § 1345 to put a stop to Defendants’ ongoing scheme and prevent them from causing
16 further harm.

17 II. JURISDICTION AND VENUE

18 7. This Court has jurisdiction over this action under 18 U.S.C. § 1345 and 28 U.S.C.
19 §§ 1331 and 1345 because Defendants’ fraud scheme targets victims in the United States and in
20 this District.

21 8. The United States District Court for the Eastern District of California is a proper
22 venue for this action under 28 U.S.C. §§ 1391(b) and 1391(c) because CB Surety LLC maintains
23 an office located in the Eastern District of California, and because it continues to operate from
24 this District.

25 III. PARTIES

26 9. Plaintiff is the United States of America.

CB Surety Defendants

1
2 10. **Defendant Thomas Eide** maintains residences in this District and the District of
3 South Carolina. In connection with the matters alleged herein, Eide transacts and has transacted
4 business in this District and throughout the United States. Defendant Eide controls Defendants
5 CB Surety LLC, Peak Bakery LLC, Cascades Pointe at Clemson, LLC, and KP Testing, LLC.

6 11. **Defendant Travis Smith** is a resident of Texas. In connection with the matters
7 alleged herein, Smith transacts and has transacted business in this District and throughout the
8 United States. Defendant Smith controls Defendants CB Surety LLC, Peak Bakery LLC,
9 Cascades Pointe at Clemson, LLC, and KP Testing, LLC.

10 12. **Defendant CB Surety LLC** (“CB Surety”) is a North Carolina company with its
11 registered address at 4030 Wake Forest Rd Ste 349, Raleigh, North Carolina 27609, and its
12 principal place of business at 3079 Harrison Avenue #10, South Lake Tahoe, California 96150.
13 Defendants Eide and Smith are its managers. In connection with the matters alleged herein, CB
14 Surety LLC transacts and has transacted business in this District and throughout the United
15 States. CB Surety also does business as Knox Secure and Prepaid Friends.

16 13. **Defendant Peak Bakery LLC** is a North Carolina company with its registered
17 address at 4030 Wake Forest Road Ste 349, Raleigh, North Carolina 27609, and its principal
18 office at 1919 McKinney Ave Ste 100, Dallas, Texas 75201. Defendant Smith is its manager.
19 Defendant Peak Bakery LLC makes and receives payments on behalf of Defendant CB Surety
20 LLC. In connection with the matters alleged herein, Peak Bakery LLC transacts and has
21 transacted business in this District and throughout the United States.

22 14. **Defendant Cascades Pointe at Clemson, LLC**, is a South Carolina limited
23 liability company with its registered address at 2 Office Park Court, Suite 103, Columbia, South
24 Carolina, 29223. Defendant Eide is one of its managers. Defendant Cascades Pointe at Clemson,
25 LLC makes and receives payments on behalf of Defendant CB Surety LLC. In connection with
26 the matters alleged herein, Cascades Pointe at Clemson LLC transacts and has transacted
27 business in this District and throughout the United States.

1 15. **Defendant KP Testing, LLC** is a Virginia limited liability company with its
2 principal office at 409 East Main Street, Suite 205, Richmond, Virginia 23219. Defendant Smith
3 is its manager. Defendant KP Testing, LLC makes and receives payments on behalf of Defendant
4 CB Surety LLC. In connection with the matters alleged herein, KP Testing, LLC transacts and
5 has transacted business in this District and throughout the United States.

6 **Merchant Account Broker Defendants**

7 16. **Defendant Stephen Christopher** is a resident of California. In connection with
8 the matters alleged herein, Christopher transacts and has transacted business in this District and
9 throughout the United States. Defendant Christopher controls Defendants Motion Media
10 Marketing, Inc. and SJC Financial Services Inc.

11 17. **Defendant Motion Media Marketing Inc.** is a California company with its
12 registered address at 14144 Mazatlan Court, Poway, California 92064. Stephen Christopher is
13 the registered agent. In connection with the matters alleged herein, Motion Media Marketing Inc.
14 transacts and has transacted business in this District and throughout the United States.

15 18. **Defendant SJC Financial Services Inc.** was a California company with its
16 registered address at 13940 Umbria Way, Poway, California 92064. Stephen Christopher was the
17 registered agent. The activities of SJC Financial Services, Inc. are now conducted by Motion
18 Media Marketing Inc. In connection with the matters alleged herein, SJC Financial Services Inc.
19 has transacted business in this District and throughout the United States.

20 **Sham Entity Recruiter Defendants**

21 19. **Defendant Aric Gastwirth** is a resident of Nevada. In connection with the
22 matters alleged herein, Gastwirth transacts and has transacted business in this District and
23 throughout the United States. Defendant Gastwirth controls Defendants Reseller Consultants,
24 Inc. and Ambragold, Inc.

25 20. **Defendant Reseller Consultants, Inc.** is a Nevada company with its registered
26 address at 3773 Howard Hughes Parkway, Ste 500S, Las Vegas, Nevada 89169. Its director is
27

1 Annette Goldstein. In connection with the matters alleged herein, Reseller Consultants, Inc.
2 transacts and has transacted business in this District and throughout the United States.

3 21. **Defendant Ambragold, Inc.** was a Florida corporation with its principal address
4 at 9835-16 Lake Worth Road #122 Lake Worth, Florida 33467. Its president and director was
5 Annette Goldstein. In May 2022, Articles of Dissolution filed with the Secretary of State of
6 Florida were signed by Aric Gastwirth. The activities of Ambragold, Inc. are now conducted by
7 Reseller Consultants, Inc. In connection with the matters alleged herein, Ambragold, Inc. has
8 transacted business in this District and throughout the United States.

9 **Merchant Account Servicer Defendants**

10 22. **Defendant Bryan Bass** is a resident of India. In connection with the matters
11 alleged herein, Bass transacts and has transacted business in this District and throughout the
12 United States. Defendant Bass controls Defendants Think Processing LLC and Bass Business
13 Consultants.

14 23. **Think Processing LLC** is a Wyoming corporation with its registered address at
15 1309 Coffeen Avenue, Suite 1200, Sheridan, Wyoming 82801. Its sole member is Defendant
16 Bass. In connection with the matters alleged herein, Think Processing LLC transacts and has
17 transacted business in this District and throughout the United States.

18 24. **Bass Business Consultants** is a corporation headquartered in Punjab, India.
19 Defendant Bryan Bass is its manager. In connection with the matters alleged herein, Bass
20 Business Consultants transacts and has transacted business in this District and throughout the
21 United States.

22 25. In connection with the matters alleged herein, all Defendants have participated in
23 a wire fraud and bank fraud scheme, and conspired with each other to participate in a wire fraud
24 and bank fraud scheme, that targets individuals and entities in the United States, including in this
25 District.

1 **IV. DEFENDANTS’ ONGOING FRAUD SCHEME**

2 **Relevant Background on Payment Card Transactions**

3 26. When a consumer pays a merchant for a good or service using a payment card
4 such as a credit or debit card, several entities are involved in processing the transaction so that
5 payments can get from the consumer’s bank account (also known as the “issuing bank”) to the
6 merchant’s bank account (also known as the “acquiring bank”).

7 27. Consumers obtain payment cards through their issuing bank. The issuing bank
8 issues payment cards associated with a card network—such as Visa, Mastercard, American
9 Express, or Discover. Businesses that wish to accept a consumer’s payment card payments must
10 apply for a merchant account with an acquiring bank.

11 28. When a consumer uses their card to pay for a good or service, the merchant
12 receives the payment through a card reading device or a merchant’s website, known as a
13 “payment gateway.” A payment processor, which often operates the payment gateway device or
14 software, then routes the card data to the card networks and banks. If the consumer’s issuing
15 bank reports that the card is valid and there are sufficient funds or credit for the transaction, the
16 issuing bank holds an authorization on the consumer’s account for the transaction and sends an
17 approval message to the payment gateway used by the merchant. This process typically happens
18 near-instantaneously.

19 **Financial Institution Diligence Prior to Opening Merchant Accounts**

20 29. Before accepting a merchant’s application for a merchant bank account, acquiring
21 banks and third-party intermediaries, such as payment processors, typically assess the merchant’s
22 business and the level of risk in working with the merchant. Such an assessment may include a
23 review of a merchant’s business history; financial stability; the kinds of products or services
24 offered; the risk of the industry in which the merchant operates; the volume of the merchant’s
25 transactions; the merchant’s billing, credit, and return policies; and the merchant’s “chargeback”
26 rate, which indicates what percentage of the merchant’s sales result in chargebacks.

1 Ongoing Monitoring

2 30. Card networks require that acquiring banks regularly monitor their merchant
3 customers to detect suspicious activity and ensure that their merchant customers are engaged in
4 businesses that are not illegal or in violation of the card network's policies. If acquiring banks
5 fail to do so, the card networks may fine the acquiring bank or revoke their ability to receive
6 payments from network-affiliated payment cards.

7 31. When an acquiring bank discovers that a merchant is engaged in fraudulent,
8 illegal, or prohibited activity, it will typically close the merchant's bank account.

9 32. Card networks and payment processors maintain lists of businesses whose
10 accounts have been closed after they were discovered to be engaged in fraudulent, illegal, or
11 prohibited activities. These lists are variously known as the MATCH List, the Terminated
12 Merchant File ("TMF"), and the Group Negative File.

13 Chargebacks

14 33. A "chargeback" occurs when a customer disputes a payment card transaction and
15 asks their issuing bank to reverse the charge. A customer may do so on the grounds that the
16 charge was unauthorized or fraudulent, among other reasons.

17 34. After a consumer initiates a chargeback, the issuing bank will typically credit the
18 consumer's account and, through the payment processor, deduct the value of this credit from the
19 merchant's account with the acquiring bank.

20 35. Credit card networks and acquiring banks typically monitor chargebacks by
21 calculating a "chargeback rate." The chargeback rate is the total number of chargebacks in a
22 month divided by the total number of transactions in that month. For example, if a merchant had
23 five chargebacks out of 100 total transactions in a single month, the merchant's chargeback rate
24 for that month would be five percent.

25 36. Generally, card networks begin to impose additional requirements and/or
26 penalties on a merchant when a chargeback rate exceeds one to three percent. For example,
27 Mastercard has an Excessive Chargeback Monitoring Program by which it monitors merchants'

1 chargeback rates. If a merchant's chargeback rate is above 1.5 percent for an extended period,
2 Mastercard may assess fees on the acquiring bank.

3 37. These card network policies create incentives for acquiring banks to review and
4 impose higher fees on or close accounts of merchants whose chargeback rates exceed the card
5 network's acceptable rate. As a result, acquiring banks generally will not accept merchants with
6 high chargeback rates and will seek to detect high chargeback rates during their underwriting.

7 Risk of Loss

8 38. Chargebacks subject acquiring banks and payment processors to the risk of loss
9 because a merchant's account at an acquiring bank serves as a line of credit. Liabilities incurred
10 by a merchant can become a credit exposure to an acquiring bank if they exceed the merchant's
11 reserves. In the event of a chargeback, the acquiring bank and/or payment processor will refund a
12 consumer. In turn, the acquiring bank expects the merchant to pay the bank for the chargebacks
13 they incur. Therefore, chargebacks can become a credit exposure to an acquiring bank if a
14 merchant is unwilling or unable to pay for the chargebacks. It also can be costly to acquiring
15 banks to investigate and resolve chargebacks.

16 39. Further, high chargeback rates can expose acquiring banks to liability for
17 facilitating fraudulent, deceptive, or otherwise unlawful conduct and cause the merchant banks
18 reputational harm. Additionally, if the merchant has a chargeback rate that exceeds a card
19 network's policy, or if the merchant engages in practices that contravene a card network's policy,
20 the acquiring bank may incur financial penalties from the card network.

21 Structure of the Scheme

22 40. Defendants defraud banks and consumers by engaging in two core, related tactics
23 to enable merchants engaged in fraudulent, illegal, or high-risk activities to obtain and maintain
24 the capacity to receive card payments. Both tactics entail defrauding financial institutions.

25 41. *First*, Defendants help merchants that would otherwise be unable to obtain or
26 have difficulty obtaining merchant bank accounts obtain and maintain such accounts by using
27 sham companies controlled by the CB Surety Defendants. Defendants use these sham companies

1 to misrepresent the nature of the merchant clients' businesses and the nature of the transactions
2 passing through the merchant clients' accounts ("transaction laundering" and/or the "transaction-
3 laundering tactic").

4 42. *Second*, to help their merchant clients maintain merchant bank accounts,
5 Defendants conduct sham transactions to artificially lower chargeback rates (the "chargeback-
6 reduction tactic").

7 43. Absent these transaction-laundering and chargeback-reduction tactics,
8 Defendants' merchant clients that are engaged in fraudulent, illegal, or high-risk businesses
9 would not be able to access the United States' financial system or would be considered so high
10 risk that access to the United States' financial system could be prohibitively expensive.

11 **Overview of Defendants' Roles in the Scheme**

12 44. Defendants Eide and Smith are organizers of the fraud scheme and conspire with
13 others to recruit merchant clients, create, and control sham companies, and conduct sham
14 transactions. Defendants CB Surety, Peak Bakery, Cascades Pointe at Clemson, and KP Testing
15 are companies controlled by Defendants Eide and Smith (collectively, "CB Surety Defendants").
16 Peak Bakery, Cascades Pointe at Clemson, and KP Testing were created for the purpose of
17 disguising scheme proceeds passing between CB Surety and other members of the scheme. For
18 example, a September 2022 bank statement for CB Surety's bank account reflects thousands of
19 dollars in payments from KP Testing, Peak Bakery, and Cascades Pointe at Clemson for office
20 space and commissions paid to Defendant Bass. Likewise, a January 2023 bank account
21 statement for Peak Bakery reflects thousands of dollars in payments from CB Surety controlled
22 sham companies and thousands of dollars in payments to other CB Surety controlled sham
23 companies, KP Testing, Cascades Pointe at Clemson, Reseller Consultants, and Eide.

24 45. Defendant Stephen Christopher and his businesses, Defendants Motion Media
25 Marketing Inc. and SJC Financial Services Inc. (collectively, "Merchant Account Broker
26 Defendants"), recruit and onboard merchants engaged in fraudulent, illegal, or high-risk
27

1 activities. The Merchant Account Broker Defendants also act as liaisons between CB Surety
2 Defendants and their merchant clients.

3 46. Defendant Aric Gastwirth and his businesses, Defendants Reseller Consultants,
4 Inc. and Ambragold, Inc. (collectively, the “Sham Entity Recruiter Defendants”), recruit and
5 onboard individuals to serve as straw owners of sham companies that CB Surety controls and
6 uses to disguise the identity of its merchant clients engaged in fraudulent, illegal, or high-risk
7 activities. Gastwirth and his business also facilitate payments to the straw owners of the sham
8 companies. For example, invoices sent by Gastwirth in the name of Ambragold, and later
9 Reseller, include charges from Ambragold and Reseller for items such as “LLC Formation fees.”
10 This charge and others reflect Gastwirth’s efforts, through Ambragold and Reseller, to create and
11 maintain the sham companies through which Defendants launder transactions.

12 47. Defendant Bryan Bass and his businesses, Defendants Bass Business Consultants
13 and Think Processing LLC (collectively, the “Merchant Account Servicer Defendants”), service
14 the merchant clients and sham companies to help conceal the fraud. This involves fielding
15 complaints from consumers and inquiries from banks and payment processors performing
16 diligence on the sham companies. Defendant Bass also uses Think Processing LLC to recruit
17 merchants engaged in high-risk or illegal activities, to receive laundered proceeds from sham
18 companies, and to transfer those proceeds to Defendants and their merchant clients. For example,
19 Defendant Smith maintains an Excel workbook with a spreadsheet named “Bass” in which
20 payments from several online casinos are split between CB Surety and Think Processing. As
21 another example, in May 2023, Bass sent an invoice to a merchant client in the name of Think
22 Processing for various services including “Chargeback, Gateway and MID management” and
23 “Account Management.” The merchant client receiving the invoice purports to be a travel agency
24 but has been the subject of numerous Federal Trade Commission complaints for being a scam.

Transaction-Laundering Tactic

Recruitment of Merchant Clients Engaged in Fraudulent, Illegal, or High-Risk Activities

48. Defendants recruit merchant clients engaged in fraudulent, illegal, or high-risk businesses to use their transaction-laundering services. Defendants Stephen Christopher and Bryan Bass are responsible for the recruitment.

49. Defendants Christopher and Bass recruit merchant clients by advertising their ability to help merchants access the banking system, which attracts merchants involved in the sale of illegal drugs, gambling, and technical-support scams, and other fraudulent business activities. For example, Bass runs a Wyoming corporation, Think Processing LLC, through which he recruits merchants engaged in high-risk or fraudulent activities to the scheme. In keeping with Think Processing LLC's role in the scheme, CB Surety payment logs reflect various payments to it for help in processing new merchants. Christopher, meanwhile, entered into a May 2017 agreement with CB Surety stating terms under which Christopher would work for CB Surety as a merchant broker helping in the sale and marketing of CB Surety's services. Both Bass and Christopher have recruited merchants engaged in illegal or high-risk activities to the scheme, such as merchants engaged in remote technical support scams and other fraudulent activities.

50. CB Surety Defendants are aware of the nature of their clients' businesses, including their clients conducting unauthorized charges, and have supported these businesses for years.

51. For example, on July 29, 2020, Eide forwarded to Smith a voicemail message from a California victim, J.G., regarding numerous fraudulent charges against J.G.'s accounts. J.G. noted, in a separate email sent to numerous email accounts controlled by Eide and Smith that were associated with the sham companies they controlled, that she had "no affiliation, no orders, or any accounts with" the merchants debiting her accounts and those charges were "NOT authorized by" her. In fact, these fraudulent charges were generated by Defendants' merchant clients using Defendants' transaction-laundering services.

1 52. J.G.’s experience is typical. From at least June 2020 through June 2023, CB
2 Surety employees and agents compiled and circulated spreadsheets on an almost daily basis
3 detailing consumers’ attempts to contact the sham companies. In 2020, the complaints for just
4 one day included, among others, the following:

5 Your [sic] attempting to take an amount out of my checking and
6 the banks [sic] putting a hold on it. So I speak to someone please.
7 Give me a call.

8 I received a withdrawal on a financial account I have from
9 “CHS*Glorymar Men CLEVELAND TN” Either you have sold
10 your name to be used for overseas transactions by gambling or
11 otherwise illegal entities, or someone has stolen it. This is fraud in
12 either scenario, so I wanted to reach out and see if you knew about
13 this. Please contact me back so I know how to approach it with my
14 bank. Thank you.

15 Yes, hi. I got a text message saying I ordered something through
16 your company and no I did not. So whatever this order is. I need
17 you to cash refund me the \$56 that you’re supposed to be charging
18 me. If you could please give me a call back.

19 53. In June 2023, the complaints for just one day included, among others, the
20 following:

21 She got charged twice , the first one is on 6th of June for \$145 and
22 the second was on the 25th of May for \$145, Customer did not
23 recognize the transaction. Requesting for refund

24 Customer did not recognize the transaction. Requesting for refund,
25 Remove her card

26 She got charged from different companies, Customer did not
27 recognize the transaction. Requesting for refund

 Called 2nd time, Customer did not recognize the transaction.
 Requesting for refund

28 *Defendants’ Recruitment of Straw Owners and Creation of Sham Companies*

29 54. To create the sham companies to disguise the true nature of Defendants’ merchant
30 client businesses, Defendant Aric Gastwirth has used his companies to recruit straw owners.

1 Gastwirth and Reseller Consultants solicit from potential straw owners the personal information
2 needed to obtain merchant accounts and form limited liability corporations (“LLCs”).

3 55. In exchange for the promise of a small monthly payment, potential straw owners
4 agree to, among other things, open bank accounts in the names of LLCs, open private mailboxes
5 at commercial mail receiving agencies (“CRMAs”) to serve as “virtual offices,” and sign and
6 return applications and documents to banks to obtain merchant bank accounts.

7 56. Gastwirth and Reseller Consultants generally incorporate two LLCs in the name
8 of each straw owner, typically corresponding alphabetically with the straw owner’s first name
9 and consisting of three seemingly unrelated words followed by the designation LLC. This
10 naming convention apparently helps Defendants keep track of which sham company is affiliated
11 with which straw owner.

12 57. At the direction of Gastwirth and Reseller Consultants, straw owners open private
13 mailboxes at CMRAs, such as The UPS Store, that serve as the sham companies’ business
14 addresses. The straw owners also open a checking account for each of their sham companies, and
15 sign various sham agreements, typically for warehouse and fulfillment, call center services, and
16 chargeback mitigation. The sham companies do not sell any goods or services and therefore do
17 not in fact use warehouse or fulfillment services; however, acquiring banks rely on merchants
18 having contracted such services to substantiate that the merchant applicant operates a legitimate
19 business.

20 58. Defendants then purchase internet domains similar to the name of each of the
21 sham companies. These internet domains are later integrated with CB Surety’s technology
22 platform, which links payments made to its merchant clients with its sham companies. This
23 linking enables a transaction made to or by a high-risk, illegal, or fraudulent merchant client to
24 appear to the acquiring bank as if it was made to or by the sham company for a legitimate
25 purpose. Each of these sham companies’ internet domains corresponds with an application for
26 merchant accounts submitted by Defendants to banks.

1 59. The goods and services advertised on the sham companies’ websites do not exist.
2 Instead, they are front websites that the Defendants use to substantiate applications for merchant
3 accounts. Defendants use these front websites to convince banks that the sham companies sell
4 real goods and services.

5 60. Defendants then misrepresent the nature of the merchant clients’ businesses to
6 financial institutions, using the sham companies and websites to substantiate their claims. For
7 example, in September 2019, Defendant Smith sent an email to two merchant account brokers
8 acknowledging that the sham company “Diamani Urban Ventures” is a “a new corp for
9 Sebastian’s group. So they are Kratom.” (Kratom is a drug with psychoactive ingredients.
10 Although it is not regulated federally, it is illegal to buy, use, or sell in several states, and it is
11 regulated in other states.) In a separate email, Defendant Smith wrote, “Here is a new merchant
12 we have. They sell Kratom, will this do for the inventory pictures?” and asked for feedback on
13 the site www.diamaniurban.com. The attached “inventory pictures” depicted a leather handbag
14 and a balance board or hover board. In a merchant processing application to BMO Harris Bank,
15 N.A., an acquiring bank, the corporate officer on behalf of Diamani Urban Ventures was listed as
16 Desta Yalew and there was no mention of “Sebastian” or “Kratom.” The application described
17 the “Merchandise/Services Sold” as “electronic travel boards, Hoverboards, Scooters, Bikes.”

18 61. Defendant Gastwirth, through Reseller Consultants, invoices Merchant Account
19 Broker Defendants for processing fees, LLC formation fees, and registered agent fees, among
20 other items.

21 *Defendants’ Control of the Sham Companies*

22 62. Defendants control the sham companies, including their means of communication
23 with third parties, their corporate actions, and their finances. At the CB Surety Defendants’
24 direction, the Merchant Account Servicer Defendants provide services, including fielding
25 complaints and inquiries from consumers intended to help conceal the fraud.

26 63. Each website created by Defendants to substantiate the fraudulent merchant
27 account applications lists a “support email” as the email contact for the company. For example,

1 the sham company Aasher Young Creations LLC has numerous website domains, including
2 aasherdecor.com, and its email contact address is support@aasherdecor.com. The CB Surety
3 Defendants and Merchant Account Servicer Defendants control these email addresses and use
4 them to communicate with third parties, including financial institutions, payment processors, and
5 consumers, in the name of the sham companies.

6 64. The CB Surety Defendants and the Merchant Account Servicer Defendants also
7 control Gmail accounts in the names of the sham companies. For example, CB Surety maintains
8 a master spreadsheet compiling Gmail account information for the scheme's sham companies,
9 including address, password, and password recovery information to facilitate control of the
10 accounts. Similarly, another CB Surety master file demonstrates that CB Surety implemented the
11 same passwords across many sham company Gmail accounts to simplify its control and use of
12 them. Emails addresses are an important way that acquiring banks substantiate the existence of
13 merchant applicants. The Merchant Account Servicer Defendants use the sham companies' email
14 addresses to field customer complaints and to respond to inquiries from acquiring banks or other
15 financial institutions performing diligence to confirm the authenticity of the sham company.

16 65. For example, in April 2021, a fraud analyst from Elavon (a payment processor
17 and wholly owned subsidiary of U.S. Bank, which is insured by the Federal Deposit Insurance
18 Corporation) emailed the straw owner email address techuengcheng1143@gmail.com and
19 indicated that the merchant account for Tianny Mighty Adventures LLC, a sham business that
20 does business as Tianny Bike Helmets, was under review. The fraud analyst asked where Tianny
21 Bike Helmets' inventory was stored, for a photo of the inventory as well as a receipt showing the
22 business name and address, and a bill with the business name and address. In response,
23 techuengcheng1143@gmail.com claimed that Tianny Bike Helmets could not provide any
24 photos because it was an e-commerce business and did not have access to its inventory.
25 Techuengcheng1143@gmail.com attached an invoice of a transaction that it claimed
26 substantiated its business name and address. The attached invoice indicated that on April 1,
27 2021, a customer, T.H., bought from Tianny Bike Helmets an item called "Synthe Helmet Pad

1 Set” and paid a total of \$50. A spreadsheet from Defendant Smith’s email account indicates that
2 the \$50 charge to T.H. was a charge by Palau Holdings NV, which owns and operates online
3 casinos.

4 66. The CB Surety Defendants use an Excel spreadsheet titled “_MASTER_” to track
5 a Gmail address, Google Voice phone number, and password for each straw owner and sham
6 company.

7 67. Defendants forward incoming phone calls to the phone numbers associated with
8 the sham companies to Google Voice numbers controlled by Defendants and the Merchant
9 Account Servicer Defendants so that they can field phone calls made to the sham companies and
10 monitor consumer complaints.

11 *Applying for and Maintaining Merchant Accounts*

12 68. After Gastwirth and Reseller Consultants recruit straw owners and create sham
13 companies in the names of straw owners that Defendants in fact control, Defendants initiate
14 numerous applications for merchant accounts, which are required for the merchants to process
15 card payments, using the trade names of each of the sham companies. In those applications,
16 Defendants do not disclose that Defendants, and not the straw owners, operate the sham
17 companies; that Defendants’ merchant clients, and not the sham companies, will be using the
18 accounts; or that the accounts will be used to facilitate transactions connected to high-risk,
19 fraudulent, or illegal activities such as drug sales, gambling, and technical-support fraud. As
20 noted above, Defendants substantiate their misrepresentations by listing the fake websites they
21 have created in the various trade names of the sham companies.

22 69. To further maintain the fraud, as noted above, the CB Surety and Merchant
23 Account Servicer Defendants field customer complaints and respond to inquiries from payment
24 processors performing diligence to confirm the authenticity of the sham companies. For example,
25 in February 2021, employees of Bryan Bass received an email inquiry from the payment
26 processing company Paysafe directed to the sham company Lindau Pearl Group LLC, one of the
27 trade names for Lindau Horse Polo. Paysafe indicated it had identified unusual activity on

1 Lindau Horse Polo’s account and requested, among other items, Lindau Horse Polo’s last three
2 months of bank statements and details related to transactions on two different Visa cards.
3 Defendant Bass forwarded the email to Defendant Smith and requested details for the two Visa
4 transactions, indicating that when responding to Paysafe, “We can use a different number and
5 email for the Customer so they are unable to contact the Customer.”

6 70. If banks and payment processors knew that Defendants’ sham companies would
7 be processing other companies’ payments through their merchant accounts, they likely would
8 neither enable the sham companies to obtain merchant accounts nor allow the accounts to remain
9 open. Indeed, when financial institutions and payment processors have learned about the scheme,
10 they have labeled the activity as money laundering, fraud, and transaction laundering, and
11 promptly closed the accounts and rejected applications seeking to obtain new merchant accounts.

12 71. For example, after the financial institution Esquire bank identified two merchant
13 accounts as potentially engaged in money laundering, Esquire closed the accounts as well as
14 seven additional merchant accounts that appeared to be linked to the two accounts. After
15 additional investigation, Esquire identified 59 additional accounts associated with the original
16 two accounts and subsequently another 38 associated accounts. Esquire closed all of these
17 accounts. On multiple occasions, Esquire has shut down merchant accounts belonging to the
18 scheme’s sham companies due to findings of excessive declined charges or fraud. The CB Surety
19 Defendants received notifications of these actions by Esquire.

20 72. When financial institutions and payment processors have detected Defendants’
21 use of the transaction laundering tactic, financial institutions and payment processors also added
22 the sham companies and straw owners to card networks’ TMFs. This, in turn, leads other
23 financial institutions and payment processors to close accounts held by these same sham
24 companies and straw owners or to reject applications seeking to obtain new merchant accounts.
25 When a sham company is detected and closed, however, Defendants typically start routing the
26 merchant clients’ transactions through one or more of the many other sham companies they
27 control and operate.

Chargeback-Reduction Tactic

73. Defendants use the chargeback-reduction tactic to help their merchant clients maintain access to bank accounts. This tactic is used to artificially lower the merchant clients' chargeback rates by using prepaid debit cards to create sham transactions, thus inflating the number of transactions flowing through the clients' accounts that do not result in chargebacks.

74. Defendants collect large deposits from their merchant clients and use those deposits to initiate numerous small-dollar sham transactions (also called "microtransactions") that appear as if they are payments for the merchant's goods or services. The merchant, in effect, pays itself: the money it pays to Defendants as part of the large deposit is returned to it in the form of the microtransactions. For their part, Defendants collect a percentage of the transactions as a service fee. Because these sham transactions never result in returns or chargebacks, they artificially lower the merchant account's overall chargeback rate.

75. In enabling and conducting these transactions, Defendants intend to deceive financial institutions and card networks that monitor the accounts of the merchant clients, causing these entities to extend credit when they would not otherwise do so. CB Surety has utilized this tactic to deceive financial institutions on a large scale: a document stored on a CB Surety Google Drive summarizes an inventory of prepaid debit cards obtained by CB Surety from more than a dozen vendors and totaling over \$180,000. In some instances, issuers of CB Surety's prepaid debit cards have become aware of use of the cards in a manner consistent with chargeback-reduction efforts and alerted CB Surety regarding this activity.

76. The chargeback-reduction tactic subjects financial institutions to the risk of loss and leads financial institutions to unwittingly facilitate the fraudulent or otherwise illegal or high-risk activities in which Defendants' merchant clients are engaged.

V. DEFENDANTS' KNOWLEDGE OF FRAUD

77. All Defendants have knowledge of and are willing and active participants in the fraudulent scheme described above. All Defendants have knowingly conspired to further the

1 fraud scheme and have demonstrated their understanding that they are participants in a scheme to
2 deceive financial institutions and to harm consumer victims.

3 **VI. HARM TO CONSUMERS AND FINANCIAL INSTITUTIONS**

4 78. Consumers have suffered and continue to suffer financial losses from Defendants’
5 wire and bank fraud scheme. Those victimized by the scheme reside across the United States,
6 including in this District.

7 79. Federally insured financial institutions are also harmed by Defendants’ wire and
8 bank fraud scheme in several ways. First, both issuing banks and acquiring banks risk forfeiting
9 the dollar amount of the chargebacks that Defendants’ merchant clients incur using fraudulently
10 obtained and maintained merchant accounts. Further, the acquiring banks that Defendants
11 deceive may incur financial penalties imposed by card networks by unknowingly permitting
12 Defendants to process payments for merchant clients engaged in fraudulent, illegal, or high-risk
13 activities. The banks may also incur reputational harm.

14 80. For example, Esquire Bank and U.S. Bank, both financial institutions as defined
15 in 18 U.S.C. § 20 and 18 U.S.C. § 1344, during their due diligence process identified sham
16 companies created by Defendants. Both banks closed the sham companies’ merchant accounts
17 immediately to avoid facilitating any illegal business, incurring any financial penalties, and
18 suffering reputational harm. Even after the closure of these accounts, however, Defendants
19 continued to hold merchant accounts in the name of other sham companies at Esquire Bank and
20 U.S. Bank.

21 81. Defendants are continuing to pursue the fraud scheme. Absent injunctive relief by
22 this Court, Defendants’ conduct will continue to cause injury to financial institutions and
23 consumers across the United States and victims may be denied the opportunity to obtain
24 restitution.

25 **COUNT 1**

26 (18 U.S.C. § 1345 – Injunctive Relief)
27

1 82. The United States re-alleges and incorporates by reference Paragraphs 1 through
2 81 of this Complaint as though fully set forth herein.

3 83. By reason of the conduct described herein, all Defendants have violated, are
4 violating, and are about to violate 18 U.S.C. §§ 1343 and 1349 by conspiring to execute and
5 executing a scheme and artifice to defraud for obtaining money by means of false or fraudulent
6 representations with the intent to defraud, and, in so doing, using interstate and foreign wire
7 communications.

8 84. By reason of the conduct described herein, all Defendants have violated, are
9 violating, and are about to violate 18 U.S.C. §§ 1344 and 1349 by conspiring to execute and
10 executing a scheme and artifice to defraud financial institutions and by conspiring to execute and
11 executing a scheme and artifice to obtain moneys owned by, or under the custody or control of,
12 financial institutions, by means of false or fraudulent pretenses, representations, or promises.

13 85. Upon a showing that Defendants are committing, conspiring to commit, or about
14 to commit wire fraud or bank fraud, the United States is entitled, under 18 U.S.C. § 1345, to seek
15 a preliminary injunction and a permanent injunction restraining all future fraudulent conduct and
16 ordering any other action that the Court deems just to prevent a continuing and substantial injury.

17 86. As a result of the foregoing, Defendants' conduct should be enjoined, and
18 Defendants should be prevented from dissipating and concealing their ill-gotten gains.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff United States of America requests of the Court the following
21 relief:

22 87. That the Court issue an order, pursuant to 18 U.S.C. § 1345, pending a hearing
23 and determination of the United States' application for a preliminary injunction, that Defendants,
24 their agents, officers and employees, and all other persons or entities in active concert or
25 participation with them, are temporarily restrained from:

- 26 a. committing wire fraud, as defined by 18 U.S.C. § 1343;
27 b. committing bank fraud, as defined by 18 U.S.C. § 1344;

1 c. conspiring to commit wire and bank fraud, as defined by 18 U.S.C.
2 § 1349;

3 d. charging, causing others to charge, or aiding others in charging
4 unauthorized debits against bank accounts;

5 e. defrauding consumers, financial institutions, and others, in any way;

6 f. incorporating or exercising control over any additional corporate entities
7 in furtherance of the fraud scheme;

8 g. alienating or disposing of assets that are the proceeds of the fraud scheme
9 or are used or planned to be used in any way to further the fraud scheme; and

10 h. destroying, deleting, removing, or transferring any and all records of any
11 nature related to the Defendants' business, financial, or accounting operations.

12 88. That the Court issue an order, pursuant to 18 U.S.C. § 1345, pending a hearing
13 and determination of the United States' application for a preliminary injunction, freezing
14 Defendant Thomas Eide's and Defendant Smith's assets.

15 89. That the Court issue an order, pursuant to 18 U.S.C. § 1345, pending a hearing
16 and determination of the United States' application for a preliminary injunction, freezing the
17 assets of Defendants CB Surety LLC, Peak Bakery LLC, Cascades Pointe at Clemson, LLC, KP
18 Testing, LLC, Motion Media Marketing Inc., SJC Financial Services Inc., Reseller Consultants,
19 Inc., Ambragold, Inc., Think Processing LLC, and Bass Business Consultants—including any
20 assets in bank accounts held by these defendants or controlled by these defendants, as well as
21 any assets in bank accounts held by others "doing business as" these defendants or vice versa.

22 90. That the Court issue an order, pursuant to 18 U.S.C. § 1345, pending a hearing
23 and determination of the United States' application for a preliminary injunction, appointing a
24 temporary receiver over Defendants CB Surety LLC, Peak Bakery LLC, Cascades Pointe at
25 Clemson, LLC, KP Testing, LLC, Motion Media Marketing Inc., SJC Financial Services Inc.,
26 Reseller Consultants, Inc., Ambragold, Inc., Think Processing LLC, and Bass Business
27

1 Consultants, as well as any other entities these defendants, Defendant Eide, or Defendant Smith
2 control.

3 91. That the Court issue preliminary injunctions on the same basis to the same effect.

4 92. That the Court issue permanent injunctions on the same basis and to the same
5 effect.

6 93. That the Court order such other and further relief as the Court shall deem just and
7 proper.

8 Dated: December 1, 2023

Respectfully submitted,

9
10 PHILLIP A. TALBERT
11 United States Attorney

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

12 TARA AMIN
13 Assistant United States Attorney

ARUN G. RAO
Deputy Assistant Attorney General

14 AMANDA N. LISKAMM
15 Director, Consumer Protection Branch

16 RACHAEL L. DOUD
17 Assistant Director, Consumer Protection Branch

18 
19 _____

ANDREW K. CRAWFORD
FRANCISCO L. UNGER

20 Trial Attorneys
21 United States Department of Justice

Attorneys for Plaintiff United States of America

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SEALED

DEFENDANTS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 2:23-cv-02812-TLN-DB Document 1-1 Filed 12/01/23 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.