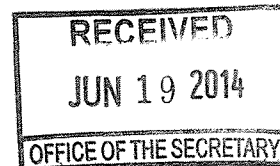


**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**



**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15844**

**In the Matter of**

**KENNETH C. TEBBS,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S MOTION FOR SANCTIONS AGAINST  
RESPONDENT KENNETH C. TEBBS**

Pursuant to Rules 155(a) and 220(f) of the Commission's Rules of Practice, 17 C.F.R § 201.155(a) and 201.220(f), and the Court's Order of May 30, 2014, the Division of Enforcement (the "Division") moves the Court to impose upon Respondent Kenneth C. Tebbs ("Tebbs") an order barring Respondent from association with any broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized rating organization, or from participating in an offering of penny stock.

**INTRODUCTION**

On April 16, 2014, the Commission issued an Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Notice of Hearing ("OIP") against Tebbs. In summary, the OIP alleged that Tebbs perpetrated a scheme to obtain money from investors by means of pretenses, representations, and omissions of material fact

which he knew were false and misleading. Tebbs pled guilty to these charges on February 11, 2013, to one count of wire fraud, in *United States v. Tebbs*, No 2:2-12-cr-672 (D. Utah) (Criminal Proceeding). Tebbs was sentenced to seventy-eight months in prison and three years of probation and ordered to pay restitution of \$12,583,599.

Tebbs was served with the OIP on April 21, 2014, in accordance with Rule 141(a)(2)(i) of the Commission's Rules of Practice, 17 C.F.R. 201.141(a)(2)(i), and was obligated to file an answer to the OIP no later than May 14, 2014. *See* Order Finding Respondent in Default and Requesting Motion for Sanctions. On May 15, 2014, the Court issued an Order to Show Cause and Canceling Prehearing Conference, in which the Court "ORDERED that Tebbs SHOW CAUSE by May 29, 2014, why this proceeding should not be determined against him for failing to file an answer to the OIP." The Court further ordered "[i]f Tebbs fails to respond to this Order, file an Answer, or otherwise defend the proceeding, he will be deemed in default and the proceeding will be determined against him.

On May 30, 2014, the Court issued an Order Finding Respondent in Default and Requesting Motion for Sanctions, finding that Tebbs had neither answered the OIP, nor shown cause why proceedings should not be determined against him.

## LEGAL DISCUSSION

### **I. The Commission is Authorized to Bar Tebbs from the Securities Industry Because he was Associated with a Broker and was Convicted of a Felony Involving Wire Fraud**

This proceeding was instituted pursuant to Section 15(b) of the Exchange Act. Section 15(b)(6)(A) of the Exchange Act provides:

[w]ith respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or

dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitation on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitation, suspension, or bar is in the public interest.

15 U.S.C. 78o(b)(6)(A). Exchange Act §15(b)(6)(A)(ii) authorizes the Commission to institute administrative proceedings and seek sanctions against any person who “has been convicted of any offense specified” in Section 15(b)(4)(B), which specifies convictions “within ten years preceding the filing of any application for registration or at any time thereafter of any felony or misdemeanor... which the Commission finds... involves the violation of section... 1343... of Title 18.” 15 U.S.C. 78o(b)(4)-(6). In short, as pertains to the case at hand, the Exchange Act authorizes the Commission to impose sanctions, including a bar, against any person who is, or has been, associated with a broker or dealer, and who is convicted of a criminal offense in violation of 18 U.S.C. §1343, Fraud by wire, radio, or television. 15 U.S.C. 78o(b)(4)-(6); 18 U.S.C. 1343.

As required by Section 15(b)(6) of the Exchange Act and as set forth in the OIP, Tebbs was registered with a broker or dealer. Pursuant to Rule 155(a) of the Commission’s Rules of Practice, the Court may deem the allegations of the OIP as true for purposes of determining sanctions when the Respondent is in default. 17 C.F.R § 201.155(a); *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012). The OIP alleges that “[f]rom September 2000 until February 2006, a portion of the time in which Tebbs engaged in the conduct underlying the felony information described below, Respondent was a registered representative associated with Farmers Financial Solutions, LLC, a

registered broker-dealer.” See OIP at ¶ II(A)(1). Since Tebbs is in default, the Court can deem the allegations of the OIP to be true. 17 C.F.R § 201.155(a); 682 F.3d at 108. Additionally, the dates of Tebbs’ registration and his association with Farmers Financial Solutions are confirmed in FINRA’s Central Registration Depository or Investment Advisers Registration Depository System Report. See FINRA CRD IARD System Snapshot, attached hereto as Exhibit “A” at p. 3.

As required by Section 15(b)(4)(B)(iv) of the Exchange Act and as set forth in the OIP, Tebbs has been convicted of felony wire fraud in violation of 18 U.S.C. §1343. The OIP alleges:

The count of the felony information to which Tebbs pleaded guilty alleged, inter alia, that Tebbs, in connection with the offer or sale of securities to investors, knowingly devised a plan to obtain money from investors by means of pretenses, representations, and omissions of material fact which he knew were false and misleading.”

See OIP at ¶ II(B)(3). The nature of Tebbs’ criminal misconduct is also detailed in the Statement by Defendant in Advance of Plea of Guilty (“guilty plea”). See Statement by Defendant in Advance of Plea of Guilty, attached hereto as Exhibit “B.” On February 11, 2013, Tebbs plead guilty to one felony count of Wire Fraud in violation of 18 U.S.C. § 1343. Tebbs admitted he “devised a scheme and artifice to defraud or a scheme to obtain money by means of false pretenses” and that he “knowingly and willfully participated in the scheme and artifice to defraud with knowledge of its fraudulent nature and with specific intent to defraud.” Tebbs further admitted using the investments of later investors to pay returns to early investors, “Ponzi payments,” disguising the poor performance of the underlying investments. Tebbs has also admitted to accepting \$49 million, from up to 250 investors, through the use of “misrepresentations and omissions” which he “knew... were material.” This scheme, Tebbs has admitted, resulted in total losses to investors of millions of dollars. See Exhibit “B.”

**II. Tebbs Should be Barred from Association with a Broker, Dealer, Investment Adviser, Municipal Securities Dealer, Municipal Advisor, Transfer Agent, or Nationally Recognized Statistical Rating Organization, or from Participating in an Offering of Penny Stock**

As it relates to the present case, §15(b)(4)-(6) of the Exchange Act requires that “the Commission, by order, shall” seek to bar a person “if the Commission finds, on the record after notice and opportunity for a hearing, that such... bar is in the public interest.” 15 U.S.C. § 78o(b)(6). The factors relevant to the consideration of the “public interest” in the issuance of a bar are: (1) the egregiousness of a respondent’s actions; (2) the isolated or recurrent nature of the infraction; (3) the degree of scienter involved; (4) the sincerity of the respondent’s assurances against future violations; (5) the respondent’s recognition of the wrongful nature of his conduct; and (6) the likelihood that the respondent’s occupation will present opportunities for future violations. *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979).

First, Tebbs’ actions were egregious. In his February 11, 2013 guilty plea, Tebbs acknowledged obtaining approximately \$49 million in investor funds for his scheme, using forged trust deeds to inspire false investor confidence. Tebbs admitted to investor losses between \$7-\$20 million, involving hundreds of investors. *See* Exhibit “B.”

Second, Tebbs’ actions were recurrent. In his guilty plea, Tebbs admitted to fraud extending from “January 2005 through October 2007.” Throughout this period, Tebbs accepted money from investors “ranging in amounts from \$15,000 to as much as \$11.3 million.” *See* Exhibit “B.” Tebbs’ scheme was not a one-off response to a desperate situation; it lasted nearly two years, and involved scores of investors. Tebbs’ scheme was calculated and recurrent.

Third, scienter is established in this case. Tebbs has admitted he “knowingly and willfully participated in the scheme and artifice to defraud with knowledge of its fraudulent nature and with

specific intent to defraud..." Tebbs made misrepresentations to investors about the use of their funds, the source of their earnings, the performance of the investments, and "knew that each of the... misrepresentations and omissions were material to investors." *See* Exhibit "B." Despite this knowledge, Tebbs continued for nearly two years to recruit new investors so he could use their investments to pay earlier investors. Tebbs' admission of knowing, willful, conduct is corroborated by the lengths he went to disguise his actions.

Fourth, Tebbs has made no assurances against future violations.

Fifth, Tebbs did not voluntarily recognize the wrongful nature of his conduct. Prior to his criminal prosecution, Tebbs had never acknowledged the fraudulent nature of his conduct. Tebbs acquired and used money from later investors to make payments to early investors, "Ponzi payments," to mask his professional failure. To avoid the natural consequences of this decision, Tebbs perpetuated the scheme. In his guilty plea, Tebbs indicated his fraud involved potentially hundreds of victims and losses of tens of millions of dollars. *See* Exhibit "B." Aside from his negotiated plea deal, Tebbs has evinced no recognition of the wrongful nature of his conduct, neither by ceasing the conduct, nor by fully accounting for it.

Sixth, absent a bar, it is likely Tebbs' occupation will present opportunities for future violations. Tebbs' background includes work as a registered representative of a broker-dealer and as a real estate investment entrepreneur. This is his chosen and exclusive area of occupation. Permitting Tebbs, upon his release, to return to his past occupations, or anything similar, would imperil the public. As a registered representative, Tebbs would be in contact with investors in a position of trust, which he has demonstrated he does not warrant. As a real estate investment entrepreneur, Tebbs offered investment opportunities with promises of extraordinary returns, and

turned to fraud to perpetuate the appearance those returns were being realized. Tebbs occupational background is rife with opportunities for future violations, and it serves the best interest of the public to limit Tebbs activities in these, and related, endeavors.

### **CONCLUSION**

For the reasons discussed above, the Court should issue an order barring Tebbs' from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock.

Respectfully submitted this 18th day of June, 2014.

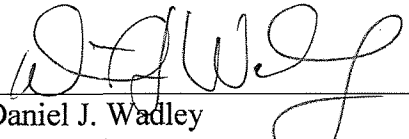
  
Daniel J. Wadley  
Counsel for Division of Enforcement  
15 West South Temple, Suite 1800  
Salt Lake City, UT 84101  
Telephone: (801) 524-5796

EXHIBIT A



## Notice

**CRD® or IARD(TM) Information:** This report contains information from the CRD (Central Registration Depository) system, or the IARD system (Investment Advisers Registration Depository), which are operated by FINRA, a national securities association registered under the Securities Exchange Act of 1934. The CRD system primarily contains information submitted on uniform broker-dealer and agent registration forms and certain other information related to registration and licensing. The IARD system primarily contains information submitted on uniform investment adviser and agent registration forms and certain other information related to registration and licensing. The information on Uniform Forms filed with the CRD or IARD is deemed to have been filed with each regulator with which the applicant seeks to be registered or licensed and shall be the joint property of the applicant and such regulators. The compilation constituting the CRD database as a whole is the property of FINRA. Neither FINRA nor a participating regulator warrants or guarantees the accuracy or the completeness of the CRD or IARD information. CRD information consists of reportable and non-reportable information.

FINRA operates the CRD system in its capacity as a registered national securities association and pursuant to an agreement with the North American Securities Administrators Association, Inc. (NASAA).

FINRA operates the IARD system as a vendor pursuant to a contract with the Securities and Exchange Commission and undertakings with NASAA and participating state regulators.

**Reportable Information:** Information that is required to be reported on the current version of the uniform registration forms.

**Non-Reportable Information:** Information that is not currently reportable on a uniform registration form. Information typically is not reportable because it is out-of-date; it was reported in error; or some change occurred either in the disposition of the underlying event after it was reported or in the question on the form that elicited the information. Although not currently reportable, this information was once reported on a uniform form and, consequently, may have become a state record. Users of this information should recognize that filers have no obligation to update non-reportable data; accordingly, it may not reflect changes that have occurred since it was reported.

Details for Request#: 12346358  
Report: Snapshot - Individual  
Requested By: ME

<u>Parameter Name</u>	<u>Value</u>
Request by CRD# or SSN:	CRD#
Individual CRD# or SSN	██████████
Include Personal Information?	Yes
Include All Registrations with Employments:	Both Current and Previous Employments
Include All Registrations for Current and/or Previous Employments with:	All Regulators
Include Professional Designations?	Yes
Include Employment History?	Yes
Include Other Business?	Yes
Include Exam Information?	Yes
Include Continuing Education Information? (CRD Only)	Yes
Include Filing History? (CRD Only)	Yes
Include Current Reportable Disclosure Information?	Yes
Include Regulator Archive and Z Record Information? (CRD Only)	Yes

**Individual 4158653 - TEBBS, KENNETH CASE**

**Administrative Information**

**Composite Information**

**Full Legal Name** TEBBS, KENNETH CASE

**State of Residence** UT

**Active Employments** <<No Current Active Employments found for this Individual.>>

**Reportable Disclosures?** The specified individual has no disclosure that qualifies for reporting under this section (i.e., disclosure required to be reported on Form U-4 or Form U-5). Regulatory and Broker/Dealer Users: Please note that there are three types of disclosure in Web CRD: Reportable, Legacy and Archive disclosure. An individual with no reportable disclosure may or may not have Legacy or Archive disclosure. Investment Adviser Users: Please note that IARD does not include Legacy disclosure. Information reported on previous form filings through IARD is available under Filing History.

**Statutory Disqualification?** BLNK

**Registered With Multiple Firms?** No

**Material Difference in Disclosure?** No

**Personal Information**

**Individual CRD#** [REDACTED]

**Other Names Known By** <<No Other Names found for this Individual.>>

**Year of Birth** 1971

**Registrations with Current Employer(s)**

<<No Registrations with Current Employer(s) found for this Individual.>>

**Registrations with Previous Employer(s)**

From 09/08/2000 To 02/14/2006 FARMERS FINANCIAL SOLUTIONS, LLC(103863)

**Reason for Termination** Other

**Termination Comment** NO LONGER AFFILIATED WITH AN FFS REGISTERED REPRESENTATIVE. NON SECURITIES RELATED TERMINATION.

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	IR	02/15/2006	TERMED	01/12/2005
UT	AG	02/15/2006	TERMED	01/12/2005

From 09/08/2000 To 12/16/2004 FARMERS FINANCIAL SOLUTIONS, LLC(103863)

**Reason for Termination** Other

**Termination Comment** FAILED TO PAY RENEWAL FEES.

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	IR	12/17/2004	TERMED	09/08/2000
UT	AG	12/17/2004	TERMED	09/08/2000

From 03/14/2000 To 09/08/2000 INVESTORS BROKERAGE SERVICES, INC.(4257)

**Reason for Termination**

**Termination Comment**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
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CRD® or IARD(TM) System Current As Of: 09/17/2013

Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

Request Submitted: 9/18/2013 12:10:45 PM

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Individual 4158653 - TEBBS, KENNETH CASE

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**Administrative Information**

**Registrations with Previous Employer(s)**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	IR	09/08/2000	MASS_TRNSF	05/08/2000
UT	AG	09/08/2000	MASS_TRNSF	05/15/2000

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Individual 4158653 - TEBBS, KENNETH CASE

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**Administrative Information**

**Professional Designations**

<<No Professional Designations found for this Individual.>>

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**Employment History**

From	09/2000	To	Present	Name	FARMERS FINANCIAL SOLUTIONS, LLC
				Location	RIVERTON, UT, USA
				Position	REGISTERED REPRESENTATIVE
				Investment Related	Yes
From	05/1999	To	Present	Name	FARMERS INSURANCE GROUP
				Location	RIVERTON, UT, USA
				Position	AGENT
				Investment Related	Yes
From	03/2000	To	09/2000	Name	IBS
				Location	RIVERTON, UT, USA
				Position	REP
				Investment Related	Yes
From	06/1997	To	05/1999	Name	TEBBS FARMERS AGENCY
				Location	RIVERTON, UT, USA
				Position	AGENT
				Investment Related	No
From	05/1995	To	06/1997	Name	LEWISTON PARKS AND REC
				Location	LEWISTON, ID, USA
				Position	FIELD MANAGER
				Investment Related	No
From	08/1994	To	05/1997	Name	LEWIS-CLARK STATE COLLEGE
				Location	LEWISTON, UT, USA
				Position	STUDENT
				Investment Related	No
From	06/1993	To	08/1994	Name	SNOW COLLEGE
				Location	EPHRAIM, UT, USA
				Position	STUDENT
				Investment Related	No
From	06/1991	To	06/1993	Name	LDS CHURCH MISSION
				Location	MACON, GA, USA
				Position	MISSIONARY

Snapshot - Individual

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Request Submitted: 9/18/2013 12:10:45 PM

**Individual 4158653 - TEBBS, KENNETH CASE**

**Administrative Information**

**Employment History**

			Investment Related	No
From	06/1990	To	06/1991	
		Name	SNOW COLLEGE	
		Location	EPHRAIM, UT, USA	
		Position	STUDENT	
		Investment Related	No	
From	08/1986	To	06/1990	
		Name	BINGHAM HIGH SCHOOL	
		Location	SOUTH JORDON, UT, USA	
		Position	STUDENT	
		Investment Related	No	

**Office of Employment History**

From 09/2000 To 02/2006

Name FARMERS FINANCIAL SOLUTIONS, LLC(103863)

**Independent Contractor**

**Office of Employment Address**

CRD Branch#	NYSE Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
		76-24R50	No	No	09/08/2000	02/14/2006	Located At
Address 1604 WEST 12600 SOUTH RIVERTON, UT 84065 USA							

From 09/2000 To 12/2004

Name FARMERS FINANCIAL SOLUTIONS, LLC(103863)

**Independent Contractor** No

**Office of Employment Address**

CRD Branch#	NYSE Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	09/08/2000	12/16/2004	Located At
Address 1604 WEST 12600 SOUTH RIVERTON, UT 84065 USA							

From 03/2000 To 09/2000

Name INVESTORS BROKERAGE SERVICES, INC.(4257)

**Independent Contractor** No

**Office of Employment Address**

CRD Branch#	NYSE Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	03/14/2000	09/08/2000	Located At

Individual 4158653 - TEBBS, KENNETH CASE

Administrative Information

Office of Employment History

Office of Employment Address

Address 1604 WEST 12600 SOUTH  
RIVERTON, UT 84065 USA

Other Business

<<No Other Business found for this Individual.>>

Exam Appointments

<<No Exam Appointments found for this Individual.>>

Exam History

Exam	Enrollment ID	Exam Status	Status Date	Exam Date	Grade	Score	Window Dates
S6	23661207	Official Result	05/08/2000	05/05/2000	Passed	80	03/18/2000-07/16/2000
S63	23661208	Official Result	05/15/2000	05/11/2000	Passed	82	03/18/2000-07/16/2000

CE Regulatory Element Status

Current CE Status 2YEARTERMED

CE Base Date

CE Appointments

<<No CE Appointments found for this Individual.>>

Current CE

<<No Current CE found for this Individual.>>

Next CE

<<No Next CE found for this Individual.>>

CE Directed Sequence History

<<No CE Directed Sequence History found for this Individual.>>

Inactive CE History Dates

<<No Inactive CE History Dates found for this Individual.>>

Previous CE Requirement Status

Requirement Type	Session	Status	Status Date	Window Dates	Result
Anniversary	106	SATISFIED	09/02/2005	05/08/2005-09/04/2005	09/02/2005 - CMPLT
Anniversary	106	REQUIRED	05/09/2005	05/08/2005-09/04/2005	
Anniversary	106	SATISFIED	09/03/2002	05/08/2002-09/04/2002	09/03/2002 - CMPLT
Anniversary	106	REQUIRED	05/08/2002	05/08/2002-09/04/2002	

Filing History

Filing Date	Form Type	Filing type	Source
02/15/2006	U5	Full	FARMERS FINANCIAL SOLUTIONS, LLC (103863)
01/12/2005	U4	Relicense CRD	FARMERS FINANCIAL SOLUTIONS, LLC (103863)
12/17/2004	U5	Full	FARMERS FINANCIAL SOLUTIONS, LLC (103863)
02/28/2001	U4	Amendment	FARMERS FINANCIAL SOLUTIONS, LLC (103863)
09/06/2000	MT	Mass Transfer	FARMERS FINANCIAL SOLUTIONS, LLC (103863)

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Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

Request Submitted: 9/18/2013 12:10:45 PM

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Individual 4158653 - TEBBS, KENNETH CASE

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**Filing History**

Filing Date	Form Type	Filing type	Source
03/17/2000	U4	Initial	INVESTORS BROKERAGE SERVICES, INC. (4257)

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CRD® or IARD(TM) System Current As Of: 09/17/2013

Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

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Individual 4158653 - TEBBS, KENNETH CASE

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**Reportable Events**

<<No Reportable Events found for this Individual.>>

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**Regulator Archive and Z Records**

<<No Regulator Archive and Z Records found for this Individual.>>

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# EXHIBIT B

DAVID B. BARLOW, United States Attorney (No. 13117)  
MARK Y. HIRATA, Assistant United States Attorney (No. 5087)  
Attorneys for the United States of America  
185 South State Street, Suite 300  
Salt Lake City, Utah 84111  
Telephone: (801) 524-5682

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

FEB 11 2013

D. MARK JONES, CLERK  
BY *[Signature]*  
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA, : Case No. 2:12-cr-00672-DS  
Plaintiff, :  
vs. : STATEMENT BY DEFENDANT IN  
KENNETH CASE TEBBS, : ADVANCE OF PLEA OF GUILTY  
Defendant. : Judge David Sam

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I hereby acknowledge and certify that I have been advised of and that I understand the following facts and rights, and that I have had the assistance of counsel in reviewing, explaining, and completing this form:

1. As part of this agreement with the United States, I intend to plead guilty to Count 1 of the Felony Information. My attorney has explained the nature of the charges against me and I have had an opportunity to discuss the nature of the charges with my attorney. I understand the charges and what the government is required to prove in order to convict me.

The elements for Count 1, in violation of 18 U.S.C. § 1343 (Wire Fraud), are:

- First, I devised a scheme and artifice to defraud or a scheme to obtain money by means of false pretenses, representations, or promises as alleged in the Felony Information;
- Second, I knowingly and willfully participated in the scheme and artifice to defraud with knowledge of its fraudulent nature and with specific intent to defraud;
- Third, in execution or furtherance of that scheme, I caused the use of interstate wire transmissions as specified in the Felony Information; and

- Fourth, the scheme employed false or fraudulent pretenses, representations, or promises that were material.

2. I know that the maximum possible penalty provided by law for Count 1 of the Felony Information, a violation of 18 U.S.C. § 1343 (Wire Fraud), is a term of imprisonment of twenty (20) years, a fine of \$250,000.00, and a term of supervised release of three (3) years. I understand that if the supervised release term is violated, I can be returned to prison for the length of time provided in 18 U.S.C. § 3583(e)(3). Additionally, I know the Court is required to impose an assessment in the amount of \$100.00 for each offense of conviction pursuant to 18 U.S.C. § 3013. Furthermore, restitution to the victims of my offense shall be ordered pursuant to 18 U.S.C. § 3663A. If I am not a U.S. citizen, I understand that my guilty plea may carry a risk of adverse immigration consequences and have fully discussed those consequences with my lawyer.

3. I know that the sentencing procedures in this case and the ultimate sentence will be determined pursuant to 18 U.S.C. § 3553(a) and that the Court must consider, but is not bound by, the United States Sentencing Guidelines, in determining my sentence. I have discussed these procedures with my attorney. I also know that the final calculation of my sentence by the Court may differ from any calculation the United States, my attorney, or I may have made, and I will not be able to withdraw my plea if this occurs.

4. I know that I can be represented by an attorney at every stage of the proceeding and I know that if I cannot afford an attorney, one will be appointed to represent me.

5. I know that I have a right to plead "Not Guilty," and I know that if I do plead "Not Guilty", I can have a trial.

6. I know that I have a right to a trial by jury, and I know that if I stand trial by a jury:

- (a) I have a right to the assistance of counsel at every stage of the proceeding.
- (b) I have a right to see and observe the witnesses who testify against me.
- (c) My attorney can cross-examine all witnesses who testify against me.
- (d) I can call witnesses to testify at trial and I can obtain subpoenas to require the attendance and testimony of those witnesses. If I cannot afford to pay for the appearance of a witness and mileage fees, the government will pay them.

- (e) I cannot be forced to incriminate myself and I do not have to testify at any trial.
- (f) If I do not want to testify, the jury will be told that no inference adverse to me may be drawn from my election not to testify.
- (g) The government must prove each and every element of the offense charged against me beyond a reasonable doubt.
- (h) It requires a unanimous verdict of a jury to convict me.
- (i) If I were to be convicted, I could appeal and if I could not afford to appeal, the government would pay the costs of the appeal, including the services of appointed counsel.

7. If I plead guilty, I will not have a trial of any kind.

8. I know that 18 U.S.C. § 3742(a) sets forth the circumstances under which I may appeal my sentence.

9. I know that 18 U.S.C. § 3742(b) sets forth the circumstances under which the United States may appeal my sentence.

10. I know that under a plea of guilty the judge may ask me questions under oath about the offense. The questions, if asked on the record and in the presence of counsel, must be answered truthfully and if I give false answers, I can be prosecuted for perjury.

11. I stipulate and agree that the following facts accurately describe my conduct. These facts provide a basis for the Court to accept my guilty plea and for calculating the sentence in my case:

From January 2005 through October 2007 (the "fraud period"), I knowingly devised a plan to obtain money from investors by means of pretenses, representations, and omissions which I knew were false and misleading. Through my two companies, Twin Peaks Financial, Inc. and MNK Investments, Inc. (collectively, "Twin Peaks"), I initially solicited investors to invest in Twin Peaks' business of buying and selling at a profit residential properties and undeveloped lots located in Salt Lake and Utah County. Specifically, I advised investors that their money would be used to purchase and, at times, develop specific properties, which would generate an annual return of approximately 18 percent, plus origination points ranging from one to five percent. In addition, I promised investors monthly payments which included both interest and principal, with full payment of remaining principal and interest at the end of the term, which ranged anywhere from one ~~one~~ month to 24 months. Investments were documented in promissory notes I prepared outlining the terms of the investment. In

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addition, I provided investors with trust deeds purporting to reflect that their investments were secured by the property for which they had agreed to invest. I further advised investors that these trust deeds guaranteed safety and if all else failed, they held title to the underlying property. Some investors were brought in by other investors and I had no knowledge of this. Not all investors received trust deeds.

At some point in 2006, I decided to expand Twin Peaks' business to focus on the purchase and acquisition of large subdivision projects of approximately 20 lots. It was at this point that I began to lose control of the business. First, money that was needed to fund these larger projects quickly exceeded Twin Peaks' incoming cash flow. Second, I soon realized that the only way to sustain Twin Peaks' business operations was through the infusion of new investor money. Finally, I also realized that Twin Peaks could not continue to sustain its on-going purchases of larger projects. Consequently, the number of investors quickly exceeded the number of investment properties under Twin Peaks' ownership and control. In light of this situation and in order to continue the business through new investments, I began falsifying and forging recording stamps on old trust deeds and provided new investors with "new" trust deeds. I did so knowing that multiple investors were now secured by the same property and lacked the security and safety I had promised.

In addition to falsifying trust deeds, I began using new investor money to make interest payments to old investors, commonly known as Ponzi payments, and in doing so, created the false and misleading pretense that Twin Peaks was successful and able to draw interest and principal payments from the business' profits. I initially rationalized this practice as simply taking existing equity in Twin Peaks' properties which could not be readily liquidated. As time passed, however, I knew that the total amount of new investor funds used to pay old investors far exceeded any cash flow stemming from the Twin Peaks properties. With the exception of a few investors, I knowingly and intentionally concealed from investors the use of fraudulent trust deeds to secure their investments and the use of their funds to make Ponzi payments to old investors.

I knew that each of the above misrepresentations and omissions were material to investors and their decision to invest with Twin Peaks. Throughout the fraud period and with full knowledge of the above misrepresentations and omissions, I accepted money from investors ranging in amounts from \$15,000 to as much as \$11.3 million. During the fraud period, I received a total of approximately \$49 million from investors and paid out approximately \$37 million in Ponzi payments.

#### **Count 1**

On or about August 13, 2007, and in execution of the above scheme, investor R.N. wire transferred \$200,000 from his US Bank account (California) to an MNK Investments account (no. xxxxx0113) at Zions First National Bank (Utah).

The above acts occurred in the District of Utah and elsewhere.

12. The only terms and conditions pertaining to this plea agreement between the defendant and the United States are as follows:

- (a) The defendant agrees as follows:
  - (1) I will waive prosecution by indictment and plead guilty to Count 1 of the Felony Information.
  - (2) To prepare my Pre-Sentence Report, I acknowledge that the United States Probation Office will ask me to complete the "Probation 48 Financial Packet" and to provide supporting documentation for the representations I make therein. I agree to truthfully and accurately complete the "Probation 48 Financial Packet" and to provide a copy of it and all supporting documentation attached thereto to the United States Probation Office and to the United States Attorney's Office within three weeks of my change of plea. I also consent to allowing the United States Attorney's Office to run a credit check on me. I understand that providing false or incomplete information or refusing to provide this information may be used as a basis for a separate prosecution under 18 U.S.C. § 1001.
  - (3) I consent to the Probation Office or the United States Attorney's Office obtaining a report of my credit record and using the information from that report in preparing the Presentence Report, at sentencing, or in any subsequent action, proceeding, or hearing related to the present action.

#### Restitution

- (4) I agree that, pursuant to the provisions of 18 U.S.C. §§ 3663A(a)(1) and (c)(1)(A)(ii), I am obligated to make restitution and the Court is obligated to order that I pay it. I understand and agree that the Court will determine at sentencing the final amount of restitution I must pay. In addition:
  - (a) I understand that the amount of restitution will be determined as a part of the sentencing proceedings in accordance with the provisions of 18 U.S.C. § 3664. I agree to pay all restitution as ordered by the

Court. I understand the payment of restitution is governed by 18 U.S.C. § 3664, and my lawyer has explained the consequences of an order of restitution.

- (b) I agree to pay restitution during any period of incarceration imposed on me as determined by the Court. I understand and agree that payment of any restitution owed should be a condition of any term of probation or supervised release imposed upon me. I know that if I fail to pay, the failure can be considered a violation of probation or supervised release and, pursuant to 18 U.S.C. § 3614, the Court can resentence me to any sentence which might originally have been imposed in my case.
  - (c) I agree that I will not seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding.
- (5) To help me meet my obligations to pay restitution and/or a fine, I consent to being placed on the Treasury Offset Program and State Finder.
  - (6) I understand that if I knowingly violate any local, state or federal law between now and the time of my sentencing, such offense may constitute a violation of this plea agreement. I also understand that the Court will decide whether a violation of the plea agreement has occurred. If the Court finds that I have breached this agreement by violating any law, I understand that the Court may relieve the government of all obligations and commitments in this plea agreement while leaving intact my plea of guilty.
- (b) The United States agrees:
    - (1) To recommend that the defendant's offense level under the U.S. Sentencing Guidelines be decreased by two levels for acceptance of responsibility pursuant to Sentencing Guideline 3E1.1(a) if, in the opinion of the United States, the defendant clearly demonstrates acceptance of responsibility for his offense, up to and including at the time of sentencing, as set forth in Sentencing Guideline 3E1.1 of the Sentencing Guidelines. In addition, the United States agrees:



- (a) To move for an additional one-level reduction in the defendant's offense level, in accordance with Sentencing Guideline 3E1.1(b), if the defendant qualifies for a two-level reduction under Sentencing Guideline 3E1.1(a) and the defendant's offense level is 16 or greater prior to receiving the two-level reduction.
- (2) To recommend at sentencing that the defendant be sentenced at the low end of the final guidelines range under the U.S. Sentencing Guidelines as determined by the Court. The United States' agreement is based on the present facts and circumstances, and if the facts change, the United States shall not be bound by this provision.
- (c) The defendant and the United States agree as follows:
  - (1) The offense to which the defendant is pleading guilty:
    - Involved a loss greater than \$7 million but not greater than \$20 million.
    - Involved more than 49 but not more than 249 victims.

\* \* \* \*

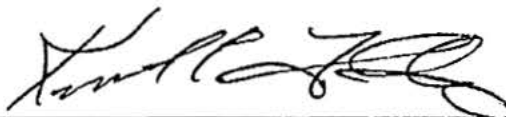
I make the following representations to the Court:

1. I am 42 years of age. My education consists of Bachelors Degree. I can read and understand English.
2. This Statement in Advance contains all terms of the agreements between me and the government; if there are exceptions, the Court will be specifically advised, on the record, at the time of my guilty plea of the additional terms. I understand the government and I cannot have terms of this plea agreement that are not disclosed to the Court.
3. No one has made threats, promises, or representations to me that have caused me to plead guilty.
4. Neither my attorney nor the government has represented to me that I would receive probation or any other form of leniency because of my

plea.

5. I have discussed this case and this plea with my lawyer as much as I wish, and I have no additional questions.
6. I am satisfied with my lawyer.
7. My decision to enter this plea was made after full and careful thought; with the advice of counsel; and with a full understanding of my rights, the facts and circumstances of the case, and the consequences of the plea. I was not under the influence of any drugs, medication, or intoxicants when the decision to enter my plea was made, and I am not now under the influence of any drugs, medication, or intoxicants.
8. I have no mental reservations concerning the plea.
9. I understand and agree to all of the above. I know that I am free to change or delete anything contained in this Statement in Advance. I do not wish to make changes to this agreement because I agree with the terms and all of the statements are correct.

DATED this 11 day of February, 2013.



KENNETH CASE TEBBS  
Defendant

Attorney Certification

I certify that I have discussed this Statement in Advance with the defendant, that I have fully explained his rights to him, and I have assisted him in completing this form. I believe that he is knowingly and voluntarily entering the plea with full knowledge of his legal rights and that there is a factual basis for the plea.

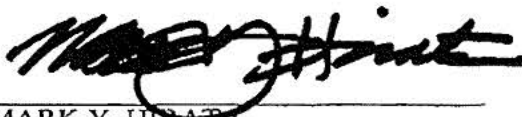
DATED this 11<sup>th</sup> day of February, 2013.

  
JAMIE ZENGER  
Attorney for Defendant

I represent that all terms of the plea agreement between the defendant and the government have been, or will be at the plea hearing, disclosed to the Court, and there are no off-the-record agreements between the defendant and the United States.

DATED this 11<sup>th</sup> day of February, 2013.

DAVID B. BARLOW  
United States Attorney

  
MARK Y. HIRATA  
Assistant United States Attorney