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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

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10 Attorneys for Plaintiff
11 United States of America

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14 SOUTHERN DIVISION

15 UNITED STATES OF AMERICA,)	NO. CV SACV12-219-DOC (JPRx)
16 Plaintiff,)	<u>COMPLAINT FOR FORFEITURE</u>
17 v.)	18 U.S.C. §§ 981(a)(1)(A) and 984,
18 \$4,656,085.10 IN BANK FUNDS,)	and 31 U.S.C. § 5317(c)(2)
19 Defendant.)	[H.S.I.]
20)	
21)	

22 For its claims against the defendant assets, \$4,656,085.10
23 in bank funds, plaintiff United States of America alleges:

24 JURISDICTION AND VENUE

- 25 1. This is a civil in rem forfeiture action pursuant to 18
26 U.S.C. §§ 981(a)(1)(A) and 984, and 31 U.S.C. § 5317(c)(2).
- 27 2. This Court has subject matter jurisdiction under 28
28 U.S.C. §§ 1345 and 1355.

1 3. Venue lies in this district pursuant to 28 U.S.C.
2 §§ 1355(b) and 1395.

3 PERSONS AND ENTITIES

4 4. Plaintiff in this action is the United States of
5 America ("plaintiff" or the "government").

6 5. The defendant \$4,656,085.10 in bank funds ("defendant
7 funds") were seized from Bank of America account number ****8219
8 ("Account No. '8219") in the name of Evergreen Capital LLC.¹ The
9 defendant bank funds were seized at a Bank of America branch
10 located at 18622 MacArthur Blvd., Irvine, California 92612 by
11 Homeland Security Investigations ("HSI") on or about September
12 12, 2011 pursuant to a federal seizure warrant.

13 6. The interests of Michael Brandner ("Brandner"), Sheila
14 Brandner and Bank of America may be adversely affected by these
15 proceedings.

16 7. The defendant funds are presently in the custody of HSI
17 in this district, where they will remain subject to the Court's
18 jurisdiction during the pendency of this action.

19 FACTS SUPPORTING FORFEITURE

20 8. Brandner was involved in contested divorce proceedings
21 in Alaska. In May of 2008, while the divorce proceedings were
22 pending, Brandner drove from Alaska to Panama with several
23 cashier's checks that totaled approximately \$3,250,000, opened an
24 account in the name of Dakota Investment ("Dakota") at Capital
25 Bank in Panama, and deposited the checks in the account. The
26 government alleges that Brandner's purpose in opening the Dakota

27
28 ¹ In compliance with Local Rule 79-5.4(d), only the last four
digits of financial account numbers are indicated.

1 account in this manner was to conceal assets from his wife
2 (Sheila Brandner).

3 9. Brandner met someone in Panama who provided him with
4 assistance in opening the Dakota account. The person who
5 provided the assistance to Brandner later began cooperating with
6 the government in connection with a separate investigation of a
7 stock fraud scheme, and is referred to herein as the "cooperating
8 witness." During the time when Brandner was opening the Dakota
9 account, the cooperating witness advised Brandner of the
10 requirement to file a Report of Foreign Bank and Financial
11 Accounts ("FBAR") with the Internal Revenue Service ("IRS"). In
12 at least one subsequent conversation the cooperating witness
13 asked Brandner if Brandner recalled their conversation about the
14 FBAR requirement. Brandner stated that he recalled the
15 conversation, but had not filed an FBAR.

16 10. Shortly thereafter, the cooperating witness assisted
17 Brandner in transferring additional funds to the Dakota account.
18 Specifically, Brandner had an Individual Retirement Account
19 ("IRA") at Pensco Trust Company ("Pensco"). The IRA account held
20 a balance of \$1,264,700.00 and Brandner wanted to move the funds
21 in this account to Panama as well. In June of 2008, Brandner
22 transferred these funds to an account that he controlled at a
23 Bank of America branch in Dana Point, California; a few days
24 later he transferred the same funds to the Dakota account and
25 then made additional deposits to the account in the amount of
26 approximately \$200,000. The government alleges that Brandner
27 made this transfer for the purpose of concealing additional
28 assets from his wife.

1 11. On May 10, 2011, the cooperating witness, who had
2 previously received from Brandner via email a portion of the
3 April 19, 2011 Alaska divorce decree, placed a monitored call to
4 Brandner. The email attachment Brandner sent to the cooperating
5 witness included a court order awarding the Pensco IRA to
6 Brandner's wife. During the telephone conversation, the
7 cooperating witness asked Brandner about his intentions with
8 respect to the money in Panama. Brandner replied "my intention
9 is to not hand it over to the court." During this conversation,
10 Brandner was made aware of a tax treaty that had recently been
11 signed by the United States and Panama that might affect
12 Brandner's situation in the Alaska divorce proceeding. Brandner
13 asked if there was any other place where he could move the Panama
14 funds. With the assistance of the cooperating witness, Brandner
15 shortly thereafter created an entity called Evergreen Capital
16 LLC, which he structured so that it could have a bank account in
17 the United States that technically was held by a foreign nominee,
18 while Brandner would in fact have control of the account. The
19 government alleges that Brandner structured Evergreen in this
20 manner for the purpose of avoiding IRS reporting requirements and
21 concealing assets from his wife.

22 12. In August of 2011, Brandner opened Account '8219 in the
23 name of Evergreen Capital at a Bank of America branch near the
24 SeaTac Airport in the State of Washington. By September 12,
25 2011, Brandner had wire-transferred all the funds from the Dakota
26 account in Panama to Account '8219. The total amount of funds
27 seized from the '8219 Account was \$4,656,085.10. The government
28 alleges that Brandner made these wire transfers for the purpose

1 of concealing assets from his wife.

2 13. Based on the facts set forth above, plaintiff alleges
3 that the defendant funds are subject to forfeiture pursuant to 18
4 U.S.C. § 981(a)(1)(C) for violation of 18 U.S.C. § 1343 and 18
5 U.S.C. § 981(a)(1)(A) for violation of 18 U.S.C. §
6 1956(a)(1)(B)(ii). Plaintiff also alleges that Brandner's
7 failure to file an FBAR in violation of 18 U.S.C. § 5316 subjects
8 the defendant bank funds to forfeiture pursuant to 31 U.S.C. §
9 5317(c)(2). To the extent that the monies seized from Account
10 '8219 are not the actual monies directly traceable to the illegal
11 activity identified herein, plaintiff alleges that the defendant
12 funds are identical property found in the same account as the
13 property involved in the specified offense, rendering them
14 subject to forfeiture pursuant to 18 U.S.C. § 984.

15 WHEREFORE, plaintiff United States of America prays that:

16 (a) due process issue to enforce the forfeiture of the
17 defendant funds;

18 (b) due notice be given to all interested parties to appear
19 and show cause why forfeiture should not be decreed;

20 (c) judgment be entered declaring that the defendant funds
21 are forfeited to the United States of America for disposition
22 according to law;

23 (d) plaintiff be awarded its costs of suit; and
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28

1 (e) plaintiff be awarded such other and further relief as
2 the Court deems just or proper.

3 DATED: February 9, 2012

4 ANDRÉ BIROTTE JR.
United States Attorney
5 ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division
6 STEVEN R. WELK
Assistant United States Attorney
Chief, Asset Forfeiture Section
7

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FRANK D. KORTUM
Assistant United States Attorney

10 Attorneys for Plaintiff
11 United States of America
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VERIFICATION

I, Jeffrey Eastman, hereby declare that:

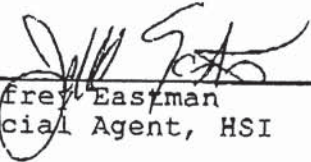
1. I am a Special Agent with Homeland Security Investigations ("HSI").

2. I have read the above Verified Complaint for Forfeiture and know its contents.

3. Official government sources furnished the information set forth in the Complaint. Based on information and belief, the allegations in the Complaint are true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed February 7, 2012, in Irvine, California.



Jeffrey Eastman
Special Agent, HSI

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself) <input type="checkbox"/> UNITED STATES OF AMERICA	DEFENDANTS \$4,656,085.10 IN BANK FUNDS
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) FRANK D. KORTUM, Assistant United States Attorney California Bar Number 110984 Federal Courthouse, 14th Floor, 312 North Spring Street Los Angeles, California 90012 Telephone: (213) 894-384-5710, Facsimile: (213) 894-7177	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:40%;"></th> <th style="width:10%; text-align: center;">PTF</th> <th style="width:10%; text-align: center;">DEF</th> <th style="width:30%;"></th> <th style="width:10%; text-align: center;">PTF</th> <th style="width:10%; text-align: center;">DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. 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 (specify): _____
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No
 MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

18 U.S.C. § 981 (A)(1)(a) AND 984, AND 31 U.S.C. § 5317(c)(2)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input checked="" type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: SACV12-219

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Alaska	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Paul Barts Date 2/9/12

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Jean P. Rosenbluth.

The case number on all documents filed with the Court should read as follows:

SACV12- 219 DOC (JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.