

FILED: October 4, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-151
(8:13-mc-00033)

In re: DAVID M. KISSI

Petitioner

ORDER

Upon consideration of submissions relative to the motions for reconsideration, the court denies the motions.

Entered at the direction of the panel: Chief Judge Gregory, Judge Wilkinson, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: July 9, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-151
(8:13-mc-00033)

In re: DAVID M. KISSI

Petitioner

ORDER

Upon consideration of submissions relative to the motions to proceed under pre-filing injunction, the court denies the motions. The court denies as moot the motion for an extension of time to file a brief.

Entered at the direction of the panel: Chief Judge Gregory, Judge Wilkinson, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

At the U.S. Appeals Court
for the 4th Circuit
1100 East Main Street
Richmond, VA 23219

In re:

DAVID KISSI,

Respondent

:
: Appeals Case #: 19-151
: US District Court Case #s: PJM 03-2241;
: 8:13-mc-00033; and AW 12-cv-01944
:

Motion for Reconsideration

Background to Why Judge Chasanow's Prefiling Injunction and PJM03-2241
Should Be Quashed

Introduction:

All the above judgments had been imposed by the judges of the U.S. District Court in Maryland to dispel my claim that I was unjustly and forcibly imprisoned and that Judge Messitte had awarded creditor Pramco a sum of \$855,000 for a debt that wasn't more than \$355,000 to start with in 2003. Then when I legally fought back, then U.S. Attorney R.J. Rosenstein and the FBI and Judge J.R. Goodwin of West Virginia had me imprisoned for about 36 months plus 36 months of probation and a \$10,000 court fine and \$700 assessment on top of that.

Now, this court should be mindful of inherent conflict of interest in this case where Judge Messitte tried me and my spouse, then in 8/2/2006 he came off the bench and testified against me as a government witness. There he conceded that since I had already paid Pramco the \$855,000 and there is no more ongoing litigation between us and Pramco, PJM03-2241 Injunction he had imposed to help Pramco take our assets without compensation, according to Judge Messitte will be quashed. See U.S. v Kissi, case 05-cr-0254 and PJM03-2241. See pp. 13-44; 28-32 hereby attached.

But in February 2013, Judge Alexander Williams revoked my probation and I was returned to government custody at White Deer, PA. So, it's impossible that Judge Chasanow's Memorandum and Order regarding enforcement of her and Judge Messitte's Injunction could have been received by me because her Memorandum

8:13-mc-00033 is dated 3/13/2013, a period when I wasn't here in Maryland. Please, check with the Bureau of Prisons. And neither is there any evidence that the government made any effort to deliver this Memorandum to me while I was in its custody in PA. It should also be noted that my wife is a joint Defendant in all these matters because her assets and money were summarily taken away by Pramco, too and Judge Chasanow, being aware of all this, could have served her with her copy of the Memorandum too, but she didn't. See pp.11-12 for Chasanow's Memorandum and my Affidavit contesting Chasanow's Memorandum.

Question Presented:

Can a prefiling injunction be imposed summarily without the parties being given advance notice such as in this case and can appeal be denied?


Argument:

Well a prefiling injunction imposed solely while litigation is ongoing by the Appellants in this case is unconstitutional for it deprives us of our 5th Amendment and Due Process Rights. Chasanow's prefiling injunction isn't impartial for it's drafted to deny our access to the courts, including an extreme order that denied us the chance of appeal. See p. 6. Therefore, this prefiling injunction and Judge Messitte's injunction should be quashed to restore our basic rights.

Conclusion:

Thus, having shown good cause that I never received Chasanow's Memorandum and that I am submitting an Affidavit to back up this claim, this court should reverse its decision of 7/9/19 and remand this case to the U.S. District Court in Delaware because our DK&R Chapter 7 Estate was incorporated in Delaware and since Maryland has shown us so much bias it can't render a fair judgment. Also, our initial lawyer who filed for DK&R's Bankruptcy, Donald Wilson, gave us such a substandard representation in the Bankruptcy Court in Baltimore in FY 2001 such that we lost a combined sum of about \$3 million - \$4 million to Pramco et al. It is unheard of that in such a civil case where we lost so much money and time, we don't even have the right to an appeal.

Now, in February 2019, I did ask for an extension so that I could file an amended brief to this underlying case, for which I am now substituting this Motion for Reconsideration. Therefore, that extension should be granted. See pp.33.

Respectfully Submitted by: 
David Kissi, Appellant, Pro se
PO Box 2185, S. Fern St.
Arlington, VA 22202
202-675-6365

Certificate of Service

This court's clerk should send copies of this Motion for Reconsideration at no cost to all interested parties since I am regarded as indigent. See 4th Circuit Order # 07-4916.

 2/2/2019
David Kissi, Appellant Pro se

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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In re:

*

DAVID M. KISSI,

*

No. 8:13-mc-33

AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

DEPUTY

Respondent.

MEMORANDUM OPINION AND ORDER

On January 30, 2013, this Court directed Respondent to show cause within fourteen days why this Court should not permanently enjoin him from instituting any new civil cases, filing any new documents in any existing case in this Court in which he is a Plaintiff, or entering the courthouse, absent prior approval from the Chief Judge of the United States District Court for the District of Maryland or the judge presiding in a specific case. Respondent filed two responses on February 4, 2013 and February 5, 2013. ECF Nos. 2-3. The February 4, 2013 response includes approximately eighty pages of documents previously filed with this Court in other matters. ECF Nos. 2-1, 2-2, 2-3, 2-4. Having considered Respondent's filings, this Court determines the proposed prefiling injunction is appropriate and will be entered for the reasons that follow.

* * *

Under the All Writs Act, 28 U.S.C. § 1651(a), this Court has the authority to issue a prefiling injunction against vexatious and repetitive litigants. *See Cromer v. Kraft Foods N. Am. Inc.*, 390 F.3d 812, 817 (4th Cir. 2004). Before issuing a prefiling injunction, a district court must weigh the following factors:

(1) the party's history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party's filings; and (4) the adequacy of alternative sanctions.

Id. at 818.

A. History of Litigation

Respondent has a history of filing vexatious and malicious complaints and documents in this Court. On October 25, 2004, this Court entered a permanent injunction against Respondent enjoining him from “continuing or instituting any actions or proceedings in any state court or in any United States court which constitute a collateral attack on any order or judgment of this Court.” *Pramco II, LLC v. Kissi*, 8:03cv2241, ECF No. 53-1 at 2 (D. Md. Oct. 10, 2003). In the intervening eight-plus years, Respondent has repeatedly violated the Court’s injunction, instituted malicious and vexatious litigation in this Court, and inundated both the Clerk’s Office and chambers with frivolous documents.

For example, on January 30, 2009, this Court denied Respondent’s action filed against Judge Messitte, noting his “allegation [was] malicious, vexatious, and devoid of any basis in fact represent[ing] yet another attempt by Kissi to continue his campaign of repetitive, vexatious, and frivolous litigation. *Kissi v. Messitte*, 8:08cv3360, ECF No. 2 at 1 (D. Md. Jan. 30, 2009). On July 16, 2012, this Court dismissed an action brought by Respondent due to “another patent attempt by Plaintiff David Kissi to evade the preliminary injunction.” *Kissi v. Simmons*, 8:12cv1950, ECF No. 8 at 1 (D. Md. July 16, 2012). In its dismissal order, the Court noted, “Kissi has a prolific litigation history, filing cases in the federal courts of Pennsylvania, Maryland, District of Columbia, New York, Delaware, Ohio, Virginia, New Jersey, and California. *Id.* at 1 n.2. Already this year this Court has entered another order dismissing a complaint filed by Respondent, explaining that “[o]n its face, the Complaint is utterly devoid of any merit whatsoever and is, but the latest, in a long series of vexatious actions brought by Respondent in this Court as well as in other courts despite having been repeatedly sanctioned for prosecuting his many meritless claims.” *Kissi v. Mead*, 8:11cv211, ECF No. 76 at 1 (D. Md. Jan.

11, 2013). As such, the Court finds Respondent has an extensive history of vexatious and malicious litigation in this Court.

B. Good-Faith Basis

In reviewing Respondent's history of litigation, this Court finds that he has lacked a good-faith basis for instituting his various actions. The above-discussed cases are illustrative of the meritless nature of his litigation in this Court, and this Court is not alone in expressing concerns with how Respondent conducts himself. For example, before transferring a case to this Court, the United States District Court for the District of Columbia explained, "plaintiff has filed hundreds of pages of documents and exhibits, none of which offer a meaningful opposition to the motion of the defendants who seek transfer to the District of Maryland." *Kissi v. Mead*, 1:08cv2031, mem. op. at 5 (D.D.C. June 10, 2009). Moreover, while this Court has been considering whether to enter a prefiling injunction against Respondent, the U.S. Judicial Panel on Multidistrict Litigation issued an order denying relief to Respondent while characterizing his argument as "wholly frivolous" and recognizing that "the frivolous and vexatious nature of the [Respondent's] conduct before other federal courts as well as before this Panel is well established." *In re: David Kissi, et al., Litigation (No. III)*, MDL No. 2425, ECF No. 29 (J.P.M.L. Feb. 28, 2013). Therefore, the Court finds Respondent has generally lacked a good-faith basis in litigating his cases in this Court.¹

¹ In lieu of addressing the merits of why this Court proposed to issue a prefiling injunction against Respondent, Respondent submits over eighty pages of facially irrelevant material and asks the Court not to issue a permanent injunction because the injunction is "racist and abusive and it doesn't serve any public purpose." ECF No. 2. Once again, Respondent has demonstrated a lack of good-faith in his representations to this Court. To the extent Respondent argues not all of his cases were frivolous because he resolved three outside of court, ECF No. 2 ¶ 11, Respondent ignores the other court findings of his vexatious and frivolous litigation efforts, as well as his violations of court injunctions to end his abusive filings in this Court.

C. Administrative Burden

The Court also finds that Respondent has become a substantial burden on judicial resources. In addition to instituting vexatious, malicious, frivolous, or meritless litigation in over twenty cases, Respondent has filed and continues to file excessive and lengthy paper documents in his cases, regardless of whether the case is still active or whether the documents are necessary to resolve a matter pending before the Court.² With each new document filed, the Clerk must review, docket and file the material and the Court must spend considerable time reviewing his lengthy filings only to conclude either the material is subject to the existing injunction or vexatious or malicious in nature. The presence of Respondent in the Clerk's Office can be, and has been, disruptive to the other business of the Court, and Respondent has directed harassing or intimidating comments toward court personnel. As an example, in his February 4, 2013 response, Respondent contends, without support, a deputy clerk "has sought to tamper with [his] public records" and committed a felony against him.³ ECF No. 2. Therefore, the Court finds Respondent's continuing conduct is an administrative burden.

D. Adequacy of Alternative Sanctions

In the eight-plus years since this Court issued its limited injunction, Respondent has repeatedly failed to comply with the injunction. In response, Respondent has been both warned by this Court and at times faced the threat of contempt proceedings for his lack of compliance and from his malicious conduct in prosecuting additional litigation in this Court. *See, e.g., Kissi v. Hirsh*, 8:05cv2781, ECF No. 18 (D. Md. Aug. 30, 2006); *Kissi v. Pramco II, LLC*, 8:08cv1580, ECF No. 34 (D. Md. Aug. 27, 2008); *Kissi v. Wilson*, 8:08cv1638, ECF No. 8 (Aug.

² His eighty-plus-page response to the January 30, 2013 show cause order adequately demonstrates the administrative impact Respondent's filings have on court resources.

³ As in prior documents, his response characterized judicial officers, staff, and other officers of this Court as either committing fraud or for being racists who have colluded as fellow "tribesman" with each other against Respondent. *See, e.g.,* ECF No. 2 ¶ 1, No. 2-1 at 1-2.

29, 2008); *Kissi v. Coldwell Banker*, 8:08cv1663, ECF No. 20 (D. Md. Sept. 8, 2008); *Kissi v. Clement*, 8:08cv2178, ECF No. 4 (D. Md. Sept. 5, 2008); *Kissi v. Pramco II, LLC*, 8:09cv1934, ECF No. 41 (D. Md. Aug. 11, 2009); *Kissi v. Messitte*, 8:08cv3360, ECF No. 2 (D. Md. Jan. 30, 2009); *Kissi v. Simmons*, 8:12cv1950, ECF No. 8 (D. Md. July 16, 2012); *Kissi v. Bank of America*, 8:12cv1322, ECF No. 24 (June 27, 2012); *Kissi v. Mead*, 8:11cv211, ECF No. 76 (D. Md. Jan. 11, 2013). Even in response to the recent show cause order, Respondent contends the “order if granted will not be enforceable” based on a lack of authority to review prior decisions of this Court, ECF No. 3, and because “it is drafted with the intent to deprive the Kissis 4th Amendment Rights,” ECF No. 2.⁴ Accordingly, the Court finds that the prior attempts to limit Respondent’s improper conduct have been ineffective.

* * *

As explained in the show cause order, this Court is mindful that Respondent is a *pro se* plaintiff and “absent exigent circumstances” courts should “not in any way limit a litigant’s access to the courts,” particularly when litigants are proceeding without counsel. *See Cromer*, 390 F.3d at 818 (citations omitted). Additionally, in crafting a prefiling injunction, the injunction must be “narrowly tailored to fit the specific circumstances at issue.” *Id.* at 818 (citations omitted). In light of Respondent’s conduct since this Court enjoined him in 2003, the Court finds that only a general prefiling injunction will ensure Respondent will end his harassing conduct in this Court. Moreover, Respondent’s disruptive conduct has interfered with the business of this Court and requires further restriction on his ability to interact with court staff.

Having provided Respondent with adequate notice and an opportunity to respond pursuant to *Cromer*, 390 F.3d at 819, it is therefore,

⁴ Respondent does not explain how his Fourth Amendment rights have been (or will be) implicated by this prefiling injunction.

ORDERED that, on behalf of the United States District Court for the District of Maryland, Respondent is ENJOINED from (1) instituting any new civil cases or (2) filing any new documents in any existing case in this Court in which he is the Plaintiff, without first obtaining approval from the Chief Judge of the United States District Court for the District of Maryland; and it is further

ORDERED that Respondent is ENJOINED from entering the courthouse unless granted specific permission by the Chief Judge of the United States District Court for the District of Maryland or the judge presiding in a specific case. Respondent is permitted to present documents to the Court Security Officer for delivery, but not to enter the courthouse or other building where this Court is in session; and it is further

ORDERED that the Clerk and deputy clerks of this Court are DIRECTED to refer any future filings by Respondent to the Chief Judge for review before entering them on the docket. Absent prior approval by the Chief Judge to enter a new filing on the docket, the Clerk and deputy clerks of this Court shall dispose of the new filing without additional action once the Chief Judge has reviewed Respondent's proposed filings; and it is further

ORDERED that Respondent is ADVISED that nothing in this injunction will be construed as limiting his ability to defend himself in any criminal or civil matter in this Court.

The Clerk is directed to send Respondent a certified copy of this Order at his last known address on file with the Clerk's Office. The Clerk shall also transmit a certified copy of this Order to the U.S. Marshals Service for the District of Maryland and the U.S. Probation Office for the District of Maryland.

March 13, 2013
Date

Deborah K. Chasanow
Deborah K. Chasanow, Chief Judge
United States District Court

ORDERED that, on behalf of the United States District Court for the District of Maryland, Respondent is ENJOINED from (1) instituting any new civil cases or (2) filing any new documents in any existing case in this Court in which he is the Plaintiff, without first obtaining approval from the Chief Judge of the United States District Court for the District of Maryland; and it is further

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March 13, 2013
Date

Deborah K. Chasanow
Deborah K. Chasanow, Chief Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

In re:

DAVID M. KISSL

Respondent.

No. 8:13-mc-33

MEMORANDUM OPINION AND ORDER

On January 30, 2013, this Court directed Respondent to show cause within fourteen days why this Court should not permanently enjoin him from instituting any new civil cases, filing any new documents in any existing case in this Court in which he is a Plaintiff, or entering the courthouse, absent prior approval from the Chief Judge of the United States District Court for the District of Maryland or the judge presiding in a specific case. Respondent filed two responses on February 4, 2013 and February 5, 2013. ECF Nos. 2-3. The February 4, 2013 response includes approximately eighty pages of documents previously filed with this Court in other matters. ECF Nos. 2-1, 2-2, 2-3, 2-4. Having considered Respondent's filings, this Court determines the proposed prefiling injunction is appropriate and will be entered for the reasons that follow.

Under the All Writs Act, 28 U.S.C. § 1651(a), this Court has the authority to issue a prefiling injunction against vexatious and repetitive litigants. See *Cramer v. Kraft Foods N. Am. Inc.*, 390 F.3d 812, 817 (4th Cir. 2004). Before issuing a prefiling injunction, a district court must weigh the following factors:

(1) the party's history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party's filings; and (4) the adequacy of alternative sanctions.

Id. at 818.

APPENDIX B

Judgment in a Criminal Case - David M. Kissi / S:05-cr-00254

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LOGGED RECEIVED

UNITED STATES DISTRICT COURT

SEP 10 2007

SOUTHERN DISTRICT OF WEST VIRGINIA

AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

UNITED STATES OF AMERICA

Case Number: 8:05-cr-00254

USM Number: 38348-037

Defendant's Attorney: Aaron Durden and
Walter Weir

David M. Kissi

JUDGMENT IN A CRIMINAL CASE

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____.
- ☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
- ☒ was found guilty on counts one, two, three, four, five, seven and eight after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 157 and 2	Bankruptcy Fraud	May 2005	One and Two
18 U.S.C. §§ 1503 and 2	Obstruction of Justice	May 2005	Three, Four and Five
18 U.S.C. § 401(3)	Contempt	April 26, 2005	Seven and eight

The defendant is sentenced as provided in pages 2 through 6 of this judgment.

- ☒ The defendant has been found not guilty on count six.
- ☒ Count nine is dismissed on the motion of the United States.

It is ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in economic circumstances.

Date of Imposition of Judgment: August 10, 2007
Date Signed: August 17, 2007

Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

In the Matter of the Search of
(name, address or brief description of person or property to be searched)

4305 Ammendale Road
Beltsville, Maryland

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

CASE NUMBER: 05-673 CBD

I, Thomas E. Simmons, being duly sworn, depose and say:

I am a(n) Special Agent, FBI and have reason to believe that ☐ on the person or ☒ on the
property or premises known as (name, description and or location)

See Attachment "A".

In the District of Maryland there is now concealed a certain person or property, namely (describe the person or property)
See Attachment B

which are (give alleged grounds for search and seizure under Rule 41(b) of the Federal Rules of Criminal Procedure)
evidence, fruits and instrumentalities of alleged crime(s).

in violation of Title 18 United States Code, Sections 151, 875, 876, 1503, 1509 and 401. The facts to support the
issuance of a Search Warrant are as follows: See attached Affidavit

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Thomas E. Simmons
Thomas E. Simmons
Special Agent, FBI
Affiant

Sworn to before me, and subscribed in my presence
February 16, 2005 at Greenbelt, Maryland
Date

United States Magistrate Judge

Charles R. [Signature]
Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

In the Matter of the Search of:
305 Ammendale Road, Beltsville, Maryland

I, Thomas E. Simmons, being duly sworn, depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (hereafter "FBI") and have been so employed for five (5) years. I am currently assigned to and investigate all violations of federal laws, including obstruction of justice, bankruptcy fraud violations of 18 U.S.C. § 371 and 18 U.S.C. § 287. During my tenure, I have investigated cases involving attempts to defraud the U.S. Government.
2. The information contained in this affidavit is based on: (1) my personal knowledge and observations made by me during the course of this investigation; (2) statements made to me by attorneys and other professionals and other witnesses; (3) my review of court documents and related court records. Since this affidavit is submitted for the limited purpose of establishing probable cause, I have not set forth each and every fact I know regarding this investigation. This affidavit contains information necessary to support probable cause to obtain a search warrant for a residence belonging to David KISSI (hereafter "KISSI"). KISSI is a suspect in an ongoing grand jury investigation into allegations that KISSI did, from at least 2001 through present, knowingly execute a scheme and artifice to defraud, and for the purpose of executing or concealing such a scheme or artifice or attempting to do so, did (1) file a petition under Title 11, United States Code, (2) file a document in a proceeding under Title 11 and (3) make a false and fraudulent representation, claim and promise concerning and in relation to a proceeding under Title 11, at any time before or after the filing of the petition, and in relation to a proceeding falsely asserted to be pending under such title, in violation of Section 157, Title 18 United States Code.
3. In 1999, David KISSI and Edith Truvillion Kissi (collectively "the KISSIs") were married and living together at 4305 Ammendale Road, Beltsville, Maryland. In this affidavit, David KISSI will be referred to singularly as "KISSI"; Edith Truvillion KISSI will be referred to singularly as "Truvillion." At all times relevant, and according to legal documents filed by KISSI, KISSI and Truvillion were agents of, and the only shareholders of, DK&R Company ("DK&R"). DK&R was the owner of a warehouse unit at Distribution Place ("Distribution Place Unit") and three commercial warehouse condominium units designated as Units U, V, and W at 10630 South Riggs Hill Road, Jessup, in Howard County, Maryland ("the Riggs Hill Units").
4. Your affiant knows from land records that KISSI and his wife purchased the property in 1986 and "transferred" it to the Ammendale Living Trust in 1994, but are listed on the Ammendale Living Trust records submitted in the litigation in this case as the Trustees of

RE P 24
CBP

APPENDIX D

19

RE P 26

the Ammendale Living Trust and, as such, still the owner of 4305 Ammendale Road, Beltsville, Maryland and has been since at least 1999. KISSI uses this address in a majority of the correspondence and court filings referenced throughout this affidavit.

5. This investigation case involves the KISSIs (primarily David KISSI's) efforts to avoid payments that they were legally obligated to pay and to intimidate and obstruct the administration of justice by continually engaging upon a pattern of suing numerous individuals without a good faith basis. KISSI acted with the intent to defraud creditor(s) of money or monies due and owing and KISSI made false and fraudulent representations in connection with bankruptcy proceedings and civil litigation related to DK&R. In the course of less than 3 years, KISSI and his wife filed over 25 lawsuits related, directly or indirectly, to the Riggs Hill and Distribution Place Units; they prevailed on none. KISSI continues to file pleadings, and mail correspondence, connected with the Riggs Hill units that contain threats and efforts to intimidate and harass. In a number of instances, statements KISSI makes therein are patently misleading, false and fraudulent. In addition to filing frivolous and vexatious pleadings in the pending litigation and/or in correspondence sent to the parties, KISSI have written numerous letters to third parties of prominence, where he uses false statements and defamation, threatens extortion and makes numerous ethnic and religious slurs against the litigants, their counsel and the court. KISSI has done so to falsely and fraudulently postpone and delay payment of monies that were due by them and owing as the result of loans defaulted upon and for the purpose of obstructing and impeding the orderly administration of the DK&R bankruptcy estate and court orders connected with civil litigation related to DK&R. Your affiant submits there is probable cause to believe that KISSI has in the past and is continuing to violate the following statutes and that evidence of such violations will be found at his residence at 4305 Ammendale Road, Beltsville, MD.

- a) Section 875(c) of Title 18 provides that "Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than 5 years, or both."
- b) Section 876(c) of Title 18 provides that "Whoever knowingly so deposits or causes to be delivered as aforesaid, any communication with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than five years, or both."
- c) Section 157 of Title 18 provides that "A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so (1) files a petition under title 11 [The U.S. Bankruptcy Code]; (2) files a document in a proceeding

under title 11; or (3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title."

- d) Section 1503 of Title 18 provides that "whoever corruptly . . . endeavors to influence, obstruct, or impede the due administration of justice" is guilty of a federal crime.
- e) Section 1509 of Title 18 provides that "Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of any duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both."
- f) Section 401 of Title 18 provides that: "A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as (1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice..."
6. In or about February 2005, your affiant interviewed Richard Kremen, a Baltimore attorney; Mark Neal, Assistant U.S. Trustee; Emil Hirsch, Esq., counsel for Pramco II, LLC and Paul Knight, a Washington D.C. attorney and counsel for Emil Hirsch. As a result of these interviews, your affiant obtained the following information. To the extent possible, this information has been substantiated by court records and pleadings, transcripts, telephone message tapes, and other documents.
7. In 1999, DK&R had commercial loans secured by the Riggs Hill Units ("the Loans"). The Money Store was the original lender to DK&R/KISSI. The Money Store was either owned by or a division of Wachovia Bank. At some point in time, Wachovia shut down the Money Store and sold its loan portfolio. Pramco II, LLC (hereinafter "Pramco") purchased the DK&R loan from the Money Store. As will be described below, and as set forth in the numerous pleadings and documents KISSI has written, this transaction is one of the core matters that drives KISSI. As will be set forth below, and based on admissions KISSI has made, KISSI believes Pramco should have only been able to collect from DK&R and him the discounted amount Pramco paid the Money Store for the DK&R receivable. Despite court rulings against him, and the clear law on this issue, KISSI continues to raise and re-raise this issue in numerous pleadings and in several venues.
8. The KISSIs personally guaranteed the Loans, as did the United States Small Business Administration ("SBA"). The commercial lenders who issued the Loans provided notice that DK&R was in default on the Loans, and provided DK&R and the KISSIs with

written notice of acceleration of all amounts due and owing on the Loans and a written demand to the KISSIs as guarantors to pay the full guaranteed indebtedness on the Loans. Specifically, on July 10, 2000, Mr. Wisner, then-counsel for The Money Store, sent a letter to KISSI's regarding default and acceleration of two notes for a total of \$401,449.81. The KISSIs did not pay. SBA paid its guarantee obligations on the Loans and then sold its interests in the Loans to Pramco II, LLC ("Pramco"). Pramco was left to collect on the Loans.

9. In 1999, KISSI sued the Small Business Administration (SBA) in federal court because it sold its interests in the Loans. The case was dismissed in 1999 as were suits KISSI filed against the Money Store.
10. On September 7, 2000, KISSI acting on behalf of DK&R Company, filed a voluntary petition for relief under Chapter 11 in United States Bankruptcy Court for the District of Maryland. ("the DK&R Bankruptcy"). Chapter 11 is the "reorganization chapter" of the U.S. Bankruptcy Code. Individuals and business organizations can file Chapter 11 - this is ordinarily the only chapter under which a business (as opposed to a sole proprietorship) may reorganize; that is, pay off debts in lieu of liquidation of assets.
11. In December 2000 and March 2001, KISSI instructed Subtractions LLC, a Riggs Hill tenant, to deposit its rent payments in a non-debtor bank account in the name of the Ammendale Living Trust (upon information and belief, KISSI and Truvillion are the beneficiaries of the trust) and to make the rent checks payable to KISSI. KISSI never disclosed the deposits of any of the rent receipts in his own personal accounts in any of the required monthly reports filed in the Chapter 11 proceedings. Your affiant knows from court documents related to this investigation, U.S. District Judge Peter J. Messitte ruled that the Ammendale Living Trust is not a valid trust and is a mere alter ego of the KISSIs. In doing so, KISSI attempted to fraudulently convert property of the DK&R bankruptcy estate to themselves.
12. In December 2000, KISSI your affiant believes based on information obtained from the U.S. Trustee's office that KISSI fraudulently conveyed property of the bankruptcy estate when he executed a lease with Subtractions LLC naming only himself as lessor. The lease does not mention DK&R. An earlier lease dated November 24, 1999 names DK&R Company as the lessor. (In the 1999 lease, the lessor is identified as "David KISSI (D.K.+R. Co.)". In the 2000 lease, the lessor is identified as "David KISSI".)
13. In February 2001, KISSI paid Supply Network \$1,000 to "fully discharge its debt" and World Supply (also known as World Office Systems) \$800 "to fully settle its claims". Both creditors are identified as prepetition general unsecured creditors on the DK&R's Schedule F. In addition, KISSI paid Supply Center of Silver Spring \$500 "to fully discharge its debt", and Robert Martin (a realtor with Coldwell Banker) \$3,300 "to negotiate lease of DK&R's property at Riggs Hill". KISSI satisfied all of the

aforementioned claims to unsecured creditors of DK&R without Court approval and in violation of U.S. bankruptcy law.

14. On June 15, 2001, based on KISSI's diversion of DK&R's estate funds to an unauthorized bank account, his fraudulent conversion of an estate lease asset, his unauthorized settlement of prepetition claims without court approval (and, according to the U.S. Trustee's Office, to the detriment of the creditors), and his employment and payment of a professional without court approval, the U.S. Trustee moved to convert the DK&R Chapter 11 bankruptcy to a Chapter 7 proceeding. Chapter 7 is the "liquidation chapter" of the U.S. Bankruptcy Code and contains procedures by which a trustee for the estate liquidates the assets of the bankrupt and pays off creditors to the extent possible. According to the parties, KISSI was furious that the control of DK&R would now be in the hands of a Trustee.
15. In response to the U.S. Trustee's motion, KISSI moved to dismiss DK&R's Chapter 11 case on July 11, 2001. However two days later on July 13, 2001, the Court granted the U.S. Trustee's motion to convert the proceeding to a Chapter 7. KISSI, through DK&R, filed a notice of appeal of the Order converting the bankruptcy to Chapter 7 on July 17, 2001 and a Motion to Reconsider the Order on July 18, 2001. On July 19, 2001, the Bankruptcy Court denied KISSI's motion to dismiss DK&R's case. On August 3, 2001, the Bankruptcy Court denied KISSI's motion to reconsider. KISSI appealed the Bankruptcy Court's order converting the DK&R case to Chapter 7 to the District Court and then to the Court of Appeals for the Fourth Circuit. Both the District Court and the Court of Appeals affirmed the Bankruptcy Court's conversion order.
- Richard Kremen was appointed by the U.S. Trustee to be the Chapter 7 Trustee (hereinafter "Trustee Kremen"). Trustee Kremen is a partner at the firm of DLA Piper Rudnick Gray Cary US LLP. He has been a distinguished member of the bar for over 30 years specializing in bankruptcy law and has been on the Panel of Bankruptcy Trustees for at least 17 years. Among other positions of prominence in the community, he is a Fellow of the American College of Bankruptcy and Chairman Emeritus of the Better Business Bureau.
17. On conversion of the Chapter 11 case to a Chapter 7, and in accordance with standard bankruptcy practice, notice of a Section 341 was scheduled. Notice was sent to KISSI at 4305 Ammendale Road, Beltsville, Maryland. KISSI did not attend this meeting, nor several subsequently scheduled 341 meetings. Your affiant has been advised by the U.S. Trustee that Section 341 meetings are the foundation of bankruptcy proceedings as it provides an opportunity for the debtor of an estate to disclose his assets to parties in interest in the bankruptcy.
18. KISSI then filed a pro se petition for Chapter 13 Bankruptcy relief in the United States Bankruptcy Court for the District of Maryland ("The First KISSI Bankruptcy") on July

- 19, 2001. Chapter 13 is the "individual reorganization chapter" of the U.S. Bankruptcy Code. Only individuals, and not businesses, may seek relief under Chapter 13 which is designed to be an expedited and relatively inexpensive reorganization proceeding. The title of Chapter 13 is "Adjustment of Debts of an Individual with Regular Income." Your affiant believes that based on the timing and KISSI's actions and litigious efforts, he filed his first Chapter 13 case in an attempt to stop the effects of the Bankruptcy Court's conversion of DK&R from Chapter 11 to 7. A separate trustee, Trustee Goldberger, was appointed to administer the First KISSI Bankruptcy. As will be set forth below, the case was dismissed because KISSI failed to attend the meeting of creditors and failed to make plan payments. KISSI appealed the dismissal on December 13, 2001. The district court affirmed the order in 2002 and the dismissal was affirmed by the Fourth Circuit.
19. On July 20, 2001, KISSI filed a motion to convert the DK&R Bankruptcy from a Chapter 7 to a Chapter 13 bankruptcy even though Chapter 13 is only available to individual petitioners. The court denied this motion on July 23, 2001. On July 26, 2001, KISSI filed a motion to stay order granting the motion to convert the DK&R bankruptcy from a Chapter 11 to a Chapter 7 pending appeal. KISSI's motion to stay was denied by the Bankruptcy Court on August 3, 2001.
 20. On July 26, 2001, the U.S. Trustee filed a complaint against KISSI seeking to enjoin fraudulent and bad faith attempts to interfere with the Chapter 7 Trustee's administration of DK&R's corporate Chapter 7 proceeding and further attempts to exert control over estate bank accounts and postpetition rent payments to the estate. On July 27, 2001, the Bankruptcy Court issued a Temporary Restraining Order enjoining KISSI from unlawfully asserting control over estate assets, including the Riggs Hill condos and the bank accounts. On January 9, 2002, the Bankruptcy Court entered a second Temporary Restraining Order enjoining KISSI from pursuing litigation against Sarah Manning (the U.S. Trustee's witness in the DK&R conversion hearing). On May 14, 2002, the Bankruptcy Court issued a permanent injunction enjoining KISSI from unlawfully interfering in the administration of Chapter 7 proceeding and from continuing litigation against Ms. Manning.
 21. Not to be deterred, on July 30, 2001, KISSI again filed a motion, this time in his Chapter 13 case, to convert the DK&R bankruptcy from a Chapter 7 to a Chapter 13 and sought to consolidate the two cases. The court denied those motions as well.
 22. Your affiant knows based on conversations with the U.S. Trustee that KISSI continued to file pleadings to avoid the progress of the Chapter 7; this time captioning the motion as one to reconsider the order denying the motion to convert the chapter case from 7 to a 13 on August 13, 2001. The court denied the motion on August 31, 2001.
 23. On August 9, 2001, Trustee Kremen filed a motion to dismiss KISSI's First Chapter 13 bankruptcy because KISSI sought to use the Chapter 13 case to interfere in Trustee

Kremen's administration of the DK&R estate. Trustee Goldberger also filed a motion to dismiss KISSI's First Chapter 13 bankruptcy for KISSI's failure to attend the 341 meeting on August 30, 2001. KISSI filed his opposition on September 6. The next day, KISSI sued his former bankruptcy counsel in PG County alleging mental anguish, fraud and negligent misrepresentation in connection with representation of DK&R during the Chapter 11 proceeding and seeking damages of \$102,000. This was one of over 10 lawsuits KISSI would file over the next 24 months against individuals associated with KISSI's litigation only because of their professional responsibilities connected to the bankruptcy. The PG County case KISSI filed against his attorney was removed to bankruptcy court and summary judgment was granted in favor of the attorney in October 2001.

24. On November 29, 2001, Trustee Kremen filed a motion to compel KISSI to attend a Section 341 Meeting of Creditors. The Bankruptcy Court granted the motion on December 3, 2001 over KISSI's objection. Notwithstanding this order, KISSI did not appear and testify at the 341 Meeting.
25. Around this time, Trustee Kremen sought court approval to employ a broker (Thomas L. Nordlinger and Transwestern Commercial Services) to sell DK&R's four warehouse units which the court granted on October 19, 2001. Trustee Kremen intended to sell DK&R's assets (the warehouses) to repay the creditors that DK&R owed; the primary creditor being Pramco and another bank, Allfirst.
26. In December 2001, KISSI sued Ms. Manning, the lessee of the Riggs Hill units, in state court falsely alleging misrepresentation and perjury at the hearing on conversion of DK&R's case from Chapter 11 to Chapter 7 and claiming damage to KISSI's reputation and seeking damages of \$2,000,000. The case was dismissed after removal to the federal bankruptcy case. Not to be deterred again, KISSI appealed.
27. Also in December 2001, KISSI sued Trustee Kremen in the District of Columbia alleging negligence and fraud for pursuing liquidation of assets after conversion from Chapter 11 to Chapter 7 proceeding and seeking damages of \$2,000,000. Again, the case was transferred to the federal bankruptcy proceedings and was dismissed in August 2002. Prior to the dismissal of this case, KISSI petitioned for a writ of mandamus in February 2002 regarding the transfer to the bankruptcy court; that petition was denied as was KISSI's motion for rehearing.
28. In January 2002, Pramco filed three separate actions against the KISSIs in the United States District Court for the District of Maryland ("the Guaranty Actions"), seeking to recover the outstanding indebtedness on the Riggs Hill loans from the KISSIs pursuant to the KISSIs' personal guarantees of the Loans. The KISSIs disputed liability to Pramco.
29. The Bankruptcy Court dismissed the First KISSI Chapter 13 Bankruptcy in October 2002.

This is not true.

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RE P. 32
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- KISSI immediately filed a motion to reconsider the dismissal, appealed the order, filed another reconsideration motion, a motion to suspend the proceedings pending appeal, and a third motion for reconsideration, as well. KISSI also sued Trustee Goldberger alleging negligence and seeking damages of \$2,000,000. The case was dismissed.
30. On February 24, 2003, Judge Peter J. Messitte, United States District Court for the District of Maryland, ruled orally that Pramco was entitled to summary judgment for a sum certain against the KISSIs jointly and severally in all three of the Guaranty Actions for approximately \$728,000 which included the amounts of the original loans, interest, late fees and attorney fees. Judge Messitte entered judgments in favor of Pramco; appeals by KISSI and Truvillion were subsequently affirmed by United States Court of Appeals for the Fourth Circuit.
31. In the Guaranty actions, Pramco alleged, and the court subsequently found, that KISSI filed false schedules of assets and obstructed the First KISSI Bankruptcy proceedings. In these schedules, KISSI made false statements about his own assets, liabilities and financial affairs. He signed these schedules under oath.
32. KISSI then sued Trustee Goldberger in Howard County, Maryland on January 29, 2002 alleging negligence and seeking damages of \$1,000,000. The matter was removed to U.S. Bankruptcy Court. The case was dismissed and the dismissal affirmed on appeal to Court of Special Appeals, but only after Trustee Goldberger incurred "material costs for defending the action - costs which had to be borne by the bankrupt estate and, according to the U.S. Trustee, to the detriment of creditors.
3. At around this time, KISSI also sued the attorney for Pramco, Emil Hirsch, in Howard County alleging mental anguish, fraud and misrepresentation in the filing of a proof of claim against the bankruptcy estate and seeking damages of \$2,000,000. This would be the first of two lawsuits against Mr. Hirsch.
34. In or about January 2003, the court issued an Order allowing Trustee Kremen to sell the Distribution Place Unit. KISSI filed various pleadings to stop the sale. Then, KISSI acting on behalf of the Ammendale Trust became the highest bidder on the sale.
35. KISSI filed a motion to dismiss the Chapter 7 proceedings on February 4, 2003. Before the district court could enter a written order confirming its summary judgment ruling on Pramco's Guaranty Actions, in March 2003, KISSI filed his second individual Chapter 13 bankruptcy proceeding (KISSI's Second Bankruptcy). KISSI's Second Bankruptcy was subsequently dismissed in July 2003 because KISSI used the case, based on findings by the bankruptcy court, to "take actions without merit to delay administration of the Chapter 7 case", which "actions have necessarily increased expenses of administration in the DK&R case", and because KISSI is not an eligible Chapter 13 debtor. KISSI appealed; the appeal was dismissed.

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36. In April 2003, KISSI sued Pramco's lawyer, Emil Hirsch, in Baltimore City alleging he filed a "false" and "doubtful" claim against the bankruptcy estate and seeking damages of \$25,000. Judgement was entered in favor of Pramco's counsel.
37. In addition in April 2003, KISSI filed seven frivolous and separate lawsuits in the District Court of Baltimore City all of which were done so to defraud the bankruptcy estate and creditors of DK&R and proceedings and to obstruct the proceedings and court orders entered in connection thereto by harassing and intimidating numerous professionals associated with the DK&R Bankruptcy. For example, KISSI falsely claimed that Pramco employee Nunan filed a "false" and "doubtful" claim against the bankruptcy estate, and stating that Pramco's counsel will be "nailed in a separate court action" and seeking damages of \$25,000. The complaint was dismissed. KISSI sued Pramco employee, Tumia for replevin for executing affidavit in support of Pramco's claims against the bankruptcy estate and seeking damages of \$25,000 (case dismissed). KISSI sued Trustee Kremen for replevin alleging that the Trustee "supported Pramco's hearsay claims" and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The case was dismissed. KISSI sued Pramco's former counsel, Mr. Wiser, for replevin for "teaming up with others to seize my estate" and malicious interference in connection with The Money Store loans sold to Pramco and seeking damages of \$25,000. The case was dismissed. KISSI sued former counsel Levin for replevin in connection with representation at time of conversion and seeking damages of \$25,000. The complaint was dismissed. KISSI sued an employee of the SBA, Mr. Barilla, for replevin for filing claim "initiated to ruin my estate" and seeking damages of \$25,000 (case dismissed). KISSI sued a second SBA employee, Stephenson, for replevin for representing SBA which allegedly "colluded" with The Money Store and seeking damages of \$25,000 and return of bankruptcy estate property. The case was dismissed. KISSI sued the broker in the Chapter 7 case, Baxley, for replevin alleging mental anguish, fraud and misrepresentation because he "aided and abetted with others to sell" bankruptcy estate property and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The case was dismissed. KISSI sued Mr. Neal, the Assistant U.S. Trustee, for replevin falsely alleging perjury and that he "conspired with my tenants ... to seize my estate and liquidate it and enrich themselves" and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The complaint was dismissed.
18. On April 17, 2003, KISSI filed amended schedules in his Second Chapter 13 Bankruptcy. In these schedules, he again failed to accurately and completely describe and disclose his assets, liabilities and financial affairs. He signed these schedules under oath as well. KISSI also stated in his plan that he will pay his creditors using rental income from the Riggs Hill properties. According to the U.S. Bankruptcy Trustee, this was an improper attempt to fraudulently convert DK&R estate property again.
9. On April 28, 2003, KISSI filed an amended Schedule D listing Truvillion (his wife) as a

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secured creditor in the Second KISSI Bankruptcy with a claim totaling \$1,290,000. He identified the Riggs Hill property as her collateral. When Trustee Kremen subsequently sold the Riggs Hill Units (see paragraph 42 infra.), the title company did not locate any recorded documents purporting to grant Truvillion a security interest in the property. Your affiant believes based on the totality of circumstances in this case that it is probable that no such documentation exists and that the statement of her security interest is patently false.

40. Also on April 28, 2003, Truvillion filed a false proof of claim asserting a "priority or seniority claim" in the amount of \$1,290,000. Again, the false proof of claim was made to defraud the creditors of the DK&R Bankruptcy. Truvillion did not attach any supporting documentation to the proof of claim. *Judge DeLoach Grant Ed. permission*
41. On June 5, 2003, Trustee Kremen sought relief in the United States Bankruptcy Court for the District of Maryland from the baseless and obstructive lawsuits and motions KISSI continually filed. Trustee Kremen sought injunctive relief to prevent KISSI and his agents from filing pleadings regarding the performance of the Trustee or professionals hired by the DK&R bankruptcy estate without prior approval from the Bankruptcy Court. The Bankruptcy Court scheduled a hearing on the contested request for injunctive relief for July 17, 2003, and later rescheduled the hearing for August 5, 2003. According to the U.S. Trustee's office, Trustee Kremen did not need to proceed with this injunction complaint because any order entered in this proceeding would have been duplicative of Judge Messitte's order entered after this injunction action was commenced. *Rejection of claim*
42. In the Summer of 2003, Trustee Kremen moved to sell the Riggs Hill Units. KISSI objected to the sales. KISSI also caused his wife, Truvillion, to object to the sale. According to the U.S. Trustee, there was no bona fide basis for the KISSI's to object to the sales. The Bankruptcy Court approved the sales over KISSI's and Truvillion's objections.
43. In July 24, 2003, the Bankruptcy Court issued yet another notice of Meeting of Creditors (First Meeting Reset to 08/15/03) in the Chapter 7 DK&R Bankruptcy.
44. On July 28, 2003, a confirmation hearing was held in KISSI's Second Chapter 13 Bankruptcy case; confirmation denied without leave to amend. The case was dismissed because: (i) KISSI was ineligible for Chapter 13 relief due to the size of his unsecured debts, as evidenced by the Final Judgments, (ii) KISSI's Plan sought to impermissibly interfere with the administration of DK&R's bankruptcy estate and (iii) the case was filed in bad faith. As a sanction, the Bankruptcy Court dismissed the KISSI Second Chapter 13 Bankruptcy Case with prejudice to KISSI's filing of any Title 11 bankruptcy case for a period of one year after July 28, 2003. Your affiant believes that, based on KISSI's actions, the district court's ability to actually enter orders granting summary judgment and eventually find judgments in the Guaranty Actions was hindered, impeded and delayed.

from February 27, 2003 when proposed orders granting summary judgment were submitted to this Court for entry. This delay resulted from KISSI's Second Chapter 13 bankruptcy case.

45. On the eve of the closing, KISSI sued the bona fide purchaser of the bankruptcy estate property Riggs Hill Unit U in Howard County on July 28, 2003 in order to block the sale of the property that would have inured to the benefit of the bankrupt estate of DK&R. That case was dismissed.
46. In or about August 2003, KISSI sued Pramco's employee again - this time in the District of Maryland, alleging she filed a "false" and "doubtful" claim against the bankruptcy estate, stating that Pramco's counsel will be "nailed in a separate court action" and seeking damages of \$25,000. The complaint was dismissed.
47. On August 1, 2003, Pramco filed a Complaint against the KISSIs in the United States District Court for the District of Maryland, Civil Action No. PJM 03-3241 ("the Pramco Litigation"). That Complaint sought a temporary restraining order, preliminary injunction, and permanent injunction forbidding the KISSIs from, among other things, filing frivolous and vexatious pleadings and litigation.
48. That same day, Judge Messitte issued a Temporary Restraining Order in the Pramco Litigation ("the TRO") on August 4, 2003. The first numbered paragraph of the TRO provided that the KISSIs, and "their agents and persons acting in concert with them are enjoined and restrained from continuing or instituting any actions or proceeding in any state court or in any United States court which constitutes a collateral attack on any order or judgment of this Court, which is currently the subject of a pending direct appeal by the Defendants to the United States Court of Appeals for the Fourth Circuit including any attempt to relitigate, reopen, reconsider, vacate or in any manner challenge or undermine the validity of any such order or judgment of this Court." The second numbered paragraph of the TRO provided that as to "any action or proceeding not prohibited by Paragraph 1 hereof, KISSI, Truvillion, their agents and any persons or entities acting in concert with them or on their behalf are hereby enjoined and restrained from filing any pleadings, actions or proceedings without prior leave of this Court." The TRO ordered Pramco to file a \$50,000 bond within four days, and provided that the TRO would not become effective "until the date of issuance of said bond."
49. On August 5, 2003, counsel for Pramco served the TRO on the KISSIs by facsimile, Federal Express, and regular mail.
50. At the August 5 hearing in Bankruptcy Court on the DK&R Trustee's motion for temporary injunction and preliminary injunction, KISSI demonstrated his awareness of the TRO by describing it as unlawful. During the hearing, KISSI was informed that Pramco was in the process of securing the \$50,000 bond required by the TRO, and that

Pramco anticipated filing that bond within days.

51. On August 7, 2003, Pramco filed the \$50,000 bond required by the TRO.
52. On or about August 8, 2003, KISSI and Truvillion jointly filed a counterclaim against Pramco in the Pramco litigation without seeking leave of court, as required by the TRO.
53. On or about August 11, 2003, KISSI and Truvillion jointly filed a document captioned "Our Second Motion to Dismiss Pramco's Complaint of Harassment [sic], Restraining Order and Appointment of a Receiver" in the Pramco litigation without seeking leave of court, as required by the TRO.
54. On August 13, 2003, KISSI filed without seeking leave of Court as required by the TRO, a pleading in the Circuit Court for Howard County, Maryland entitled "Notice Of Lis Pendens For The Property Located At 10630 Riggs Hill Rd., Units U, V and W, Annapolis Junction, MD 20794. See Maryland Rule 12-102."
55. In August 2003, KISSI caused service of a complaint of fraud against Gary Wilson filed in the Circuit Court of Howard County, Maryland. Wilson was the bona fide purchaser of Riggs Hill Unit U. Your affiant believes KISSI filed this pleading to further impede the administration of the bankrupt estate.
56. On August 18, 2003, KISSI filed a pleading in the District Court for Baltimore City, Maryland entitled "Line Item Notice Of Lis Pendens For The Property Located At 10630 Riggs Hill Rd., Units U, V and W, Annapolis Junction, MD" which your affiant believes was to cloud the title to the property Trustee Kremen had been authorized by the Bankruptcy Court to sell.
57. In August 21, 2003, at the preliminary injunction hearing, Trustee Kremen testified under oath that he was appointed panel trustee in DK&R Co. Bankruptcy in July, 2001. He provided a summary to the district judge of some of the facts set forth above. Trustee Kremen testified that KISSI and DK&R sued him three times. Bankruptcy Judge Derby had ruled any further actions had to be brought in bankruptcy case, but KISSI sued in Maryland State district court anyway. Trustee Kremen explained to Judge Derby that he hired a broker, Mr. Baxley, to sell the 3 units known as Riggs Hill. Mr. Baxley produced contracts and Trustee Kremen then filed motions to sell the condo units free and clear. Judge Derby approved the first sale last week, and the motion on the other two is pending. In August 2003, KISSI refused to attend the 341 hearing. Judge Derby entered an order requiring his appearance; still KISSI never appeared. Later, KISSI falsely claimed that Trustee Kremen hadn't scheduled a 341 hearing, so Trustee Kremen scheduled a second meeting; KISSI didn't appear again. Trustee Kremen then closed DK&R's bank accounts containing approximately \$11,000. When Trustee Kremen tried to collect rent for the units, KISSI interfered with those attempts. Trustee Kremen

explained that KISSI sued Mr. Baxley and recently sued the buyer. Finally, Trustee Kremen testified that he filed a motion for a TRO seeking to enjoin KISSI from litigating.

58. By October 2003, the District Court initiated criminal contempt proceeding for KISSI's and Truvillion's willful violations of the District Court's temporary restraining order and preliminary injunction for, among other things, suing the purchaser of estate property, filing a notice of lis pendens relating to estate property (Riggs Hill units), and filing pleadings attacking Pramco's claims. The proceedings were brought by a Special Counsel appointed by the Court who filed an Information on these charges on or about October 14, 2003.
 59. KISSI was represented by counsel in the contempt proceedings. Both KISSI and Truvillion pled guilty to criminal contempt.
 60. In October 2004, Trustee Kremen applied for allowance of his fees. At a hearing in January 2005, the Bankruptcy Court approved Trustee Kremen's fees and expenses over the objections of KISSI and Truvillion.
 61. On October 25, 2004, Judge Messitte sentenced KISSI to incarceration and five years of unsupervised probation and Truvillion to five years of unsupervised probation for criminal contempt [8:03-cr-00473-PJM]. U.S. Probation advised of a technical problem with the sentencing and a resentencing was required.
- At the resentencing on November 24, 2004, the Judge Messitte indicated that it would not go forward with the sentences originally imposed in connection with the contempt proceeding (10 days jail time for KISSI and supervised release terms for both he and Truvillion). KISSI's behavior at the sentencings and resentencing continued to be obstructive and contumacious. Therefore, the Court indicated it would refer KISSI's conduct to the U.S. Attorney's Office to review the full scale of Defendant's conduct throughout the proceedings for investigation into possible obstruction of justice and contempt charges.
63. By the end of the year 2004, KISSI embarked upon a letter writing campaign that contained references to the court (Judge Messitte) as a racist against minorities including describing Judge Messitte as "being so prejudice he makes a Klansman from Alabama look like a saint." The latter comment was made in a letter mailed and dated December 29, 2004 from David Kissi to Professor Alan M. Dershowitz and was copied to U.S. Supreme Court Chief Justice William Rehnquist, the US Attorney for the District of Maryland, The Washington Post, and The New York Times, among others. There is absolutely no evidence in the record to support such baseless accusations against the Court.
 64. Despite the restraining order Judge Messitte preliminary put in place, KISSI wrote a letter

to Bankruptcy Judge Derby on December 3, 2004 in which he falsely noted that Judge Messitte included a notice to permanently bar the KISSI's from any American courtroom. In fact, the TRO barred suits regarding the Riggs Hill Units only. KISSI stated the notice was to make the "unsavory Emil Hirsch happy" and produced "so much outcry" that Judge Messitte "suspended the harsh sentence", and referred the case to the U.S. Attorney's Office and claimed the Justice Department is "also investigating Messitte and Emil Hirsch for violating our Civil Rights as minorities." These latter statements to Judge Derby are patently false.

65. At the end of the December 9, 2004 hearing on Trustee Kremen's application for fees in the Bankruptcy Court, KISSI approached Trustee Kremen's attorney, Mr. Kobbe and yelled "you don't know me" several times. KISSI then approached Trustee Kremen and yelled that Trustee Kremen "stole my money" and "you'd better get it back." As KISSI was being escorted out of the courtroom by court security officers, KISSI yelled "I will get you" directly at Trustee Kremen. Assistant U.S. Trustee Neal and others were sitting nearby within earshot in the courtroom.

66. On January 13, 2005 Judge Messitte issued a Memorandum Order in the various civil actions pending in U.S. District Court involving Pramco and KISSI.

67. Sometime prior to January 20, 2005, Mr. Hirsch contacted the Montgomery County Police Department about safety concerns he had because of KISSI's letter writing campaign against him and Judge Messitte.

On or about January 20, 2005, KISSI left the following messages on the answering machine for Mr. Hirsch located in Washington D.C. It states:

11:54 a.m., January 20, 2005, 60 seconds

Emil Hirsch. This is Dave KISSI. I would like to meet you and we go over your bogus judgment. So we resolve it finally. I like to meet you okay and resolve the bogus judgment. Okay? I like to meet you. I can come to your office or we can go the McDonald's across the street or I can come to your house with my lawyer. We would like to meet you and resolve all this trouble you have been doing to us. Call me back. Dave KISSI. 301-520-2557. You like to resolve this finally? You like you meet me in your office or at McDonalds or we come to your house. Tell us which you want. But if we don't hear from you we come to your house. I'll come with my lawyer and, uh, we resolve it in front of your family. Show that, uh, we are honest people. We are first class American citizens and we would like to resolve this matter and get it over with. Okay?

Mr. Hirsch contacted the police about this message.

69. On or about 4:22 p.m., January 20, 2005, KISSI left a second message on the answering machine for Mr. Hirsch located in Washington D.C. It states

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Mr. Hirsch. I would like to meet you with my lawyer and we go over everything and show that you collected a bogus judgment. Okay? My lawyer would like to meet you and show you collected a bogus judgment. Okay? You don't want to meet my lawyer, we come to your house and show your family how you make your living as bill collector. You are just a little fucking Shylock. And after that you are going to be deported back to Poland or Romania. A poor place where donkey still is useful transportation and Volkswagen will never even hire you fucking little Jew to wash the floor at Volkswagen factory. You bastard. You see something. Okay? You stole all my money. You gotta get my money back. My lawyer would like to talk to you.

Following this message, Mr. Hirsch sought protective relief in the Montgomery County District Court. KISSI and Mr. Hirsch attended the January 24, 2005 hearing but the court was unable to grant Mr. Hirsch relief because, according to Mr. Hirsch, the judge ruled that KISSI was entitled to notice before being told not to send threatening messages. At the hearing, KISSI made statements that the call was made on his cellular telephone, the number for which is not known to your affiant.

70. Subsequently, Mr. Hirsch sought further injunctive relief in the U.S. District Court in Maryland by way of a Second Temporary Restraining Order. The hearing was held on February 9, 2005.

71. The night before the hearing, on or about February 8, 2005, KISSI faxed a letter to O'Connor & Hamman in Washington D.C. from his home in Beltsville, MD (301)937-2143. The letter is actually addressed to "Ms. Emil Shylock Hirsch" and by the substance of the letter is meant for the wife of Pramco's counsel, Emil Hirsch. In the letter, KISSI states that

And if your husband keeps hounding us by threatening to have me jailed, giving us anxiety and sending process servers in the middle of the night looking for my wife, I am going to do the same thing to you in your household. That if your husband, Shylock Hirsch, doesn't back off from deliberately hounding us, with his friend and personal attorney, US Judge Messitte and he is still trying to shake us down by threatening to send us to jail and impose on my wife a 5 year supervised probation (something normally done to felons)... I will make sure you will face the same punishment from an impartial American jurist. Messitte will never be able to protect you from.

So, in conclusion, whatever pain and anguish your husband has given us will be returned to you by God. In the interim, if Hirsch's

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hounding persists, I am going to send a special process server, the County Sheriff and my lawyers after you at your home, temple, bus stop, supermarket, country club and PTA meetings in Montgomery County...

72. Your affiant knows from reviewing some of the documentation submitted by KISSI in the course of this litigation that he uses a computer to prepare a number of the documentation discussed in this Affidavit.

Your Affiant submits that the facts set forth in this affidavit establish probable cause to believe that evidence, fruits, instrumentalities, as described in Attachment B of this affidavit, currently exist at 4305 Ammendale Road, Beltsville, MD, as more fully described in Attachment A of this affidavit, and are evidence of the violation of 18 U.S.C. Sections 151, 875, 876, 1503, 1509 and 401.

Based on your Affiant's training, experience and participation in other investigations involving attempts to defraud the government, your Affiant knows that persons perpetrating fraud, contempt and threat offenses often maintain documents, records and other tangible items related to said offenses at their primary residence. These items can include, but not limited to, drafts of documents, records of mailings or wire transmissions, corporate and business records related to the individual's personal interest in said corporation or its assets, bank records, and diaries, address books, planners, logs, notes or correspondence reflecting intent and motivation.

In addition, based on my training and experience, and on consultation with other agents familiar with the investigation of fraudulent schemes, I am aware that the types of records described herein above are often maintained in both hard copy and electronic media formats, such as computers and personal digital assistants (PDA's). Based on my knowledge, training, and experience and consultation with other Federal Law Enforcement Officers, I am aware that computer hardware, software, documentation, passwords, and data security devices may be important to a criminal investigation in two distinct and important respects: (1) The objects themselves may be instrumentalities, fruits, or evidence of crime and/or (2) The objects may have been used to collect and store information about crimes (in the form of electronic data).

Based on my training, experience, and consultation with other Federal Law Enforcement Officers, I know that searching and seizing information from computers often requires agents to seize most or all electronic storage devices (along with related peripherals) to be searched later by a qualified computer expert in a laboratory or otherwise controlled environment.

This is true because of the following:

- a) The volume of evidence. Computer storage devices (like hard drives, diskettes, tapes, laser disks, cd's) can store the equivalent of thousands of pages of information. Additionally, a suspect may try to conceal criminal evidence; he or she might store it in random order with deceptive file names. This may require searching authorities

to examine all stored data to determine which particular files are evidence of a crime. This sorting process can take days or weeks, depending on the volume of data stored, and it may be impractical to attempt this kind of data search on site.

b) Technical requirements. Searching computers for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data. In any event, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden," erased, compressed, password-protected, or encrypted files. Since computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction, a controlled environment is essential to its complete and accurate analysis.

Upon securing the computer so that no information contained therein can be changed, altered, damaged or corrupted, our Computer Analysis Response Team (CART) will attempt to create an electronic image of those parts of the computer that are likely to store evidence of documents and information described in this warrant. In order to determine whether the computer contains any information within the scope of the warrant, it will be necessary to examine the programs and file names saved in the computer's memory, much the way file folders would be reviewed during the execution of a search warrant to determine if the files are within the scope of the search warrant. After inspecting the computer systems, our computer analysts may determine it is not feasible to electronically image the necessary data on site, due to any of the circumstances described above, and the computer systems and related peripherals may have to be seized and moved from the premises, so that the data can be retrieved and preserved in a laboratory or other controlled environment. If, after inspecting the computer systems, the analyst(s) determines that these items are no longer necessary to retrieve and preserve the data evidence, the government will return them within a reasonable time.

Any of the items described above, which may be stored in the form of magnetic or electronic coding on computer media or media capable of being read by a computer with the aid of computer-related equipment, including floppy diskettes, fixed hard disks and drives, or removable hard disk cartridges. The search procedure of the electronic data contained in computer operating software or memory devices, whether performed on site or in a laboratory, or other controlled environment, may include the following techniques:

- a) surveying various file "directories" and the individual files they contain (which is analogous to looking at the outside of a file cabinet for the markings it contains, and opening a drawer believed to contain pertinent files.)
b) "opening" or cursorily reading the first few "pages" of such files in order to determine their precise contents;
c) "scanning" storage areas to discover and possibly recover recently deleted data;
d) scanning storage areas for deliberately hidden data or files;
e) performing key word searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation.

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RE P. 41 A

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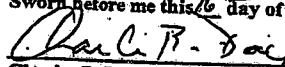
This warrant and this search procedure specifically excludes a search of any kind of unopened electronic mail. No search of unopened electronic mail shall be conducted without a separate search warrant supported by probable cause. Appropriate efforts shall be made to minimize the disclosure of records and other information which are not the subject of this warrant.

As a result of the above, this Affiant respectfully requests that a search warrant be issued authorizing your Affiant and other law enforcement officers/agents to search the residence located at 4305 Ammendale Road, Beltsville, Maryland, as further described in Attachment A, and to seize those items listed in Attachment B.

Further your affiant sayeth not.


Thomas E. Simmons
Special Agent, FBI

Sworn before me this 16th day of February, 2005.


Charles B. Day
United States Magistrate Judge

Attachment A

05-613 CPU

This affidavit is in support of an search warrant for 4305 Ammendale Road, Beltsville, Maryland 20705, the residence of DAVID KISSI and EDITH TRUVILLION. That residence, further described is a one story rancher-style dwelling, with red brick and white siding, and a light brown door on the front. The numbers 4305 are affixed to the right side of the front door in black numerals. The front door is approached via a concrete step walk-up with a black railing. A black mailbox on a white pole is located in front of the residence and a driveway is located on the right side of the residence.

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

In the Matter of the Search of
(Name, address or brief description of person or property to be searched)

SEARCH WARRANT

4305 Ammendale Road
Beltsville, Maryland

CASE NUMBER: 05-673 CBJ

TO: Special Agent Thomas E. Simmons and any Authorized Officer of the United States

Affidavit(s) having been made before me by Special Agent Thomas E. Simmons who has reason to believe that
☐ on the person or ☒ on the premises known as (name, description and/or location)

See Attachment "A".

in the District of Maryland, there is now concealed a certain person or property, namely (describe the person or property)

See Attachment "B".

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe "at the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before

February 29, 2005
Date

(not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime - 6:00 A.M. to 10:00 P.M.) ~~(at any time in the day or night if it is shown that reasonable cause has been established)~~ and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to the Honorable Charles B. Day, U.S. Magistrate Judge, as required by law.

February 16, 2005 at Greenbelt, Maryland
Date and Time Served

Charles B. Day
Charles B. Day
United States Magistrate Judge
Signature of Judicial Officer

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UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA
v.
DAVID M. KISSI

WARRANT FOR ARREST

CASE NUMBER: 05-1983 WC

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED TO ARREST DAVID M. KISSI

and bring him forthwith to the nearest magistrate to answer a(n) ^{Name}

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition
charging (brief description of offense) that,

- a. From in or about September 2000 through in or about May 2005, David M. KISSI did devise and intend to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so (1) filed a petition under title 11 [the U.S. Bankruptcy Code]; (2) filed documents in a proceeding under title 11; and (3) made false or fraudulent representations, claims, and promises concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title, in violation of 18 U.S.C. §157.
- b. On or about December 9, 2004, David M. KISSI did corruptly, by threats and by threatening communication, endeavor to influence, intimidate and impede an officer in and of any court of the United States, in the discharge of his duties, in violation of 18 U.S.C. §1503(a).
- c. From in or about August 2003 through in or about May 2005, David M. KISSI did corruptly, by threats and by threatening letter and communication, endeavor to influence, obstruct, and impede the due administration of justice, in violation of 18 U.S.C. §1503(a).

WILLIAM CONNELLY
Name of Issuing Officer

United States Magistrate Judge
Title of Issuing Officer

William Connelly
Signature of Issuing Officer

May 24, 2005 5:30pm
Date and Location

Carol L. Bishop
(By) Deputy Clerk

Bail Fixed at \$ _____ by WILLIAM CONNELLY, United States Magistrate Judge
Name of Judicial Officer

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA
v.
DAVID M. KISSI

CRIMINAL COMPLAINT

CASE NUMBER: 05-1983 WC

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief:

- a. From in or about September 2000 through in or about May 2005, David M. KISSI did devise and intend to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so (1) filed a petition under title 11 [the U.S. Bankruptcy Code]; (2) filed documents in a proceeding under title 11; and (3) made false or fraudulent representations, claims, and promises concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title, in violation of 18 U.S.C. §157.
- b. On or about December 9, 2004, David M. KISSI did corruptly, by threats and by threatening communication, endeavor to influence, intimidate and impede an officer in and of any court of the United States, in the discharge of his duties, in violation of 18 U.S.C. §1503(a).
- c. From in or about August 2003 through in or about May 2005, David M. KISSI did corruptly, by threats and by threatening letter and communication, endeavor to influence, obstruct, and impede the due administration of justice, in violation of 18 U.S.C. §1503(a).

I further state that I am a Special Agent, FBI and that this complaint is based on the ATTACHED AFFIDAVIT.

Continued on the attached sheet and made a part hereof: X Yes ☐ No

Thomas E. Simmons
Thomas E. Simmons, Special Agent, FBI
Signature of Complainant

Sworn to before me and subscribed in my presence,

May 24, 2005 5:30pm at Greenbelt, Maryland
Date and Time Issued

Honorable William Connelly
Magistrate Judge

William Connelly
Signature of Judicial Officer

APPENDIX E

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AFFIDAVIT IN SUPPORT OF ARREST WARRANT

I, Thomas E. Simmons, being duly sworn, depose and state as follows:

1. Your affiant is an "investigative or law enforcement officer" of the United States, within the meaning of Section 2510 (7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 2516, Title 18, United States Code. I have been employed as a Special Agent of the FBI since May, 2000. During my tenure as an FBI Agent, I have participated in numerous criminal investigations involving terrorism, public corruption, fugitive apprehensions, bank robbery, extortion, obstruction of justice, bankruptcy fraud violations and other unlawful activities. I have participated in numerous searches, arrests and seizure warrants involving a variety of offenses. I have personally participated in the investigation of the offenses referred to below, and reviewed reports and had discussions with other Special Agents and employees of the FBI and other law enforcement agencies. I am fully familiar with the facts and circumstances of this investigation.
2. The information contained in this affidavit is based on: (1) my personal knowledge and observations made by me during the course of this investigation; (2) statements made to me by attorneys and other professionals and other witnesses; (3) my review of court documents and related court records. Since this affidavit is submitted for the limited purpose of establishing probable cause, I have not set forth each and every fact I know regarding this investigation. This affidavit contains information necessary to support probable cause to obtain an arrest warrant for David KISSI (hereafter "KISSI").
3. In 1999, David KISSI and Edith Truvillion Kissi (collectively "the KISSIs") were married and living together at 4305 Ammendale Road, Beltsville, Maryland. In this affidavit, David KISSI will be referred to singularly as "KISSI"; Edith Truvillion KISSI will be referred to singularly as "Truvillion." At all times relevant, and according to legal documents filed by KISSI, KISSI and Truvillion were agents of, and the only shareholders of, DK&R Company ("DK&R"). DK&R was the owner of a warehouse unit at Distribution Place ("Distribution Place Unit") and three commercial warehouse condominium units designated as Units U, V, and W at 10630 South Riggs Hill Road, Jessup, in Howard County, Maryland ("the Riggs Hill Units").
4. Your affiant knows from land records that KISSI and his wife purchased the property in 1986 and "transferred" it to the Ammendale Living Trust in 1994, but are listed on the Ammendale Living Trust records submitted in the litigation in this case as the Trustees of the Ammendale Living Trust and, as such, still the owner of 4305 Ammendale Road, Beltsville, Maryland and has been since at least 1999.
5. This investigation case involves the KISSIs (primarily David KISSI's) efforts to avoid

payments that they were legally obligated to pay and to threaten, endeavor to influence, intimidate officers of the United States and to similarly obstruct the due administration of justice by continually engaging upon a pattern of suing numerous individuals without a good faith basis, and threatening and attempting to influence and intimidate said individuals and sending and transmitting threatening and intimidating communications to persons associated in any manner with parties adverse to KISSI. KISSI acted with the intent to defraud creditor(s) of money or monies due and owing and KISSI made false and fraudulent representations in connection with bankruptcy proceedings and civil litigation related to DK&R. In the course of less than 3 years, KISSI and his wife filed over 25 lawsuits related, directly or indirectly, to the Riggs Hill and Distribution Place Units; they prevailed on none. KISSI continues to file pleadings, and mail correspondence, connected with the Riggs Hill units that contain threats and efforts to intimidate and harass. In a number of instances, statements KISSI makes therein are patently misleading, false and fraudulent. In addition to filing frivolous and vexatious pleadings in the pending litigation and/or in correspondence sent to the parties, KISSI have written numerous letters to third parties of prominence, where he uses false statements and defamation, threatens extortion and makes numerous ethnic and religious slurs against the litigants, their counsel and the court. KISSI has done so to falsely and fraudulently postpone and delay payment of monies that were due by them and owing as the result of loans defaulted upon and for the purpose of obstructing and impeding the orderly administration of the DK&R bankruptcy estate and court orders connected with civil litigation related to DK&R. Your affiant respectfully submits this affidavit contains probable cause that KISSI violated the following federal statutes:

- a) Section 157 of Title 18 provides that "A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so (1) files a petition under title 11 [The U.S. Bankruptcy Code]; (2) files a document in a proceeding under title 11; or (3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title."
- c) Section 1503 of Title 18 provides that "whoever corruptly, by threats or force, or by any threatening letter or communication . . . endeavors to influence, obstruct, or impede" "any . . . officer in or of any court of the United States" or the "due administration of justice" is guilty of a federal crime.
6. In or about February 2005, your affiant interviewed Richard Kremen, a Baltimore attorney; Mark Neal, Assistant U.S. Trustee; Emil Hirsch, Esq., counsel for Pramco II, LLC and Paul Knight, a Washington D.C. attorney and counsel for Emil Hirsch. As a result of those interviews, your affiant obtained the following information. To the extent possible, this information has been substantiated by court records and pleadings,

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transcripts, telephone message tapes, and other documents.

7. In 1999, DK&R had commercial loans secured by the Riggs Hill Units ("the Loans"). The Money Store was the original lender to DK&R/KISSI. The Money Store was either owned by or a division of Wachovia Bank. At some point in time, Wachovia shut down the Money Store and sold its loan portfolio. Pramco II, LLC (hereinafter "Pramco") purchased the DK&R loan from the Money Store. As will be described below, and as set forth in the numerous pleadings and documents KISSI has written, this transaction is one of the core matters that drives KISSI. As will be set forth below, and based on admissions KISSI has made, KISSI believes Pramco should have only been able to collect from DK&R and him the discounted amount Pramco paid the Money Store for the DK&R receivable. Despite court rulings against him, and the clear law on this issue, KISSI continues to raise and re-raise this issue in numerous pleadings and in several venues.
8. The KISSIs personally guaranteed the Loans, as did the United States Small Business Administration ("SBA"). The commercial lenders who issued the Loans provided notice that DK&R was in default on the Loans, and provided DK&R and the KISSIs with written notice of acceleration of all amounts due and owing on the Loans and a written demand to the KISSIs as guarantors to pay the full guaranteed indebtedness on the Loans. Specifically, on July 10, 2000, Mr. Wiser, then-counsel for The Money Store, sent a letter to KISSI's regarding default and acceleration of two notes for a total of \$401,449.81. The KISSIs did not pay. SBA paid its guarantee obligations on the Loans and then sold its interests in the Loans to Pramco II, LLC ("Pramco"). Pramco was left to collect on the Loans.
9. In 1999, KISSI sued the Small Business Administration (SBA) in federal court because it sold its interests in the Loans. The case was dismissed in 1999 as were suits KISSI filed against the Money Store.
10. On September 7, 2000, KISSI acting on behalf of DK&R Company, filed a voluntary petition for relief under Chapter 11 in United States Bankruptcy Court for the District of Maryland. ("the DK&R Bankruptcy"). Chapter 11 is the "reorganization chapter" of the U.S. Bankruptcy Code. Individuals and business organizations can file Chapter 11 - this is ordinarily the only chapter under which a business (as opposed to a sole proprietorship) may reorganize; that is, pay off debts in lieu of liquidation of assets.
11. In December 2000 and March 2001, KISSI instructed Subtractions LLC, a Riggs Hill tenant, to deposit its rent payments in a non-debtor bank account in the name of the Ammendale Living Trust (upon information and belief, KISSI and Truvillion are the beneficiaries of the trust) and to make the rent checks payable to KISSI. KISSI never disclosed the deposits of any of the rent receipts in his own personal accounts in any of the required monthly reports filed in the Chapter 11 proceedings. Your affiant knows

from court documents related to this investigation, U.S. District Judge Peter J. Messitte ruled that the Ammendale Living Trust is not a valid trust and is a mere alter ego of the KISSIs. In doing so, KISSI attempted to fraudulently convert property of the DK&R bankruptcy estate to themselves.

12. In December 2000, KISSI your affiant believes based on information obtained from the U.S. Trustee's office that KISSI fraudulently conveyed property of the bankruptcy estate when he executed a lease with Subtractions LLC naming only himself as lessor. The lease does not mention DK&R. An earlier lease dated November 24, 1999 names DK&R Company as the lessor. (In the 1999 lease, the lessor is identified as "David KISSI (D.K.+R. Co.)". In the 2000 lease, the lessor is identified as "David KISSI".)
13. In February 2001, KISSI paid Supply Network \$1,000 to "fully discharge its debt" and World Supply (also known as World Office Systems) \$800 "to fully settle its claims". Both creditors are identified as prepetition general unsecured creditors on the DK&R's Schedule F. In addition, KISSI paid Supply Center of Silver Spring \$500 "to fully discharge its debt", and Robert Martin (a realtor with Coldwell Banker) \$3,300 "to negotiate lease of DK&R's property at Riggs Hill". KISSI satisfied all of the aforementioned claims to unsecured creditors of DK&R without Court approval and in violation of U.S. bankruptcy law.
14. On June 15, 2001, based on KISSI's diversion of DK&R's estate funds to an unauthorized bank account, his fraudulent conversion of an estate lease asset, his unauthorized settlement of prepetition claims without court approval (and, according to the U.S. Trustee's Office, to the detriment of the creditors), and his employment and payment of a professional without court approval, the U.S. Trustee moved to convert the DK&R Chapter 11 bankruptcy to a Chapter 7 proceeding. Chapter 7 is the "liquidation chapter" of the U.S. Bankruptcy Code and contains procedures by which a trustee for the estate liquidates the assets of the bankrupt and pays off creditors to the extent possible. According to the parties, KISSI was furious that the control of DK&R would now be in the hands of a Trustee.
15. In response to the U.S. Trustee's motion, KISSI moved to dismiss DK&R's Chapter 11 case on July 11, 2001. However two days later on July 13, 2001, the Court granted the U.S. Trustee's motion to convert the proceeding to a Chapter 7. KISSI, through DK&R, filed a notice of appeal of the Order converting the bankruptcy to Chapter 7 on July 17, 2001 and a Motion to Reconsider the Order on July 18, 2001. On July 19, 2001, the Bankruptcy Court denied KISSI's motion to dismiss DK&R's case. On August 3, 2001, the Bankruptcy Court denied KISSI's motion to reconsider. KISSI appealed the Bankruptcy Court's order converting the DK&R case to Chapter 7 to the District Court and then to the Court of Appeals for the Fourth Circuit. Both the District Court and the Court of Appeals affirmed the Bankruptcy Court's conversion order.

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16. Richard Kremen was appointed by the U.S. Trustee to be the Chapter 7 Trustee (hereinafter "Trustee Kremen"). Trustee Kremen is a partner at the firm of DLA Piper Rudnick Gray Cary US LLP. He has been a distinguished member of the bar for over 30 years specializing in bankruptcy law and has been on the Panel of Bankruptcy Trustees for at least 17 years. Among other positions of prominence in the community, he is a Fellow of the American College of Bankruptcy and Chairman Emeritus of the Better Business Bureau.
17. On conversion of the Chapter 11 case to a Chapter 7, and in accordance with standard bankruptcy practice, notice of a Section 341 was scheduled. Notice was sent to KISSI at 4305 Amundale Road, Beltsville, Maryland. KISSI did not attend this meeting, nor several subsequently scheduled 341 meetings. Your affiant has been advised by the U.S. Trustee that Section 341 meetings are the foundation of bankruptcy proceedings as it provides an opportunity for the debtor of an estate to disclose his assets to parties in interest in the bankruptcy.
18. KISSI then filed a pro se petition for Chapter 13 Bankruptcy relief in the United States Bankruptcy Court for the District of Maryland ("The First KISSI Bankruptcy") on July 19, 2001. Chapter 13 is the "individual reorganization chapter" of the U.S. Bankruptcy Code. Only individuals, and not businesses, may seek relief under Chapter 13 which is designed to be an expedited and relatively inexpensive reorganization proceeding. The title of Chapter 13 is "Adjustment of Debts of an Individual with Regular Income." Your affiant believes that based on the timing and KISSI's actions and litigious efforts, he filed his first Chapter 13 case in an attempt to stop the effects of the Bankruptcy Court's conversion of DK&R from Chapter 11 to 7. A separate trustee, Trustee Goldberger, was appointed to administer the First KISSI Bankruptcy. As will be set forth below, the case was dismissed because KISSI failed to attend the meeting of creditors and failed to make plan payments. KISSI appealed the dismissal on December 13, 2001. The district court affirmed the order in 2002 and the dismissal was affirmed by the Fourth Circuit.
19. On July 20, 2001, KISSI filed a motion to convert the DK&R Bankruptcy from a Chapter 7 to a Chapter 13 bankruptcy even though Chapter 13 is only available to individual petitioners. The court denied this motion on July 23, 2001. On July 26, 2001, KISSI filed a motion to stay order granting the motion to convert the DK&R bankruptcy from a Chapter 11 to a Chapter 7 pending appeal. KISSI's motion to stay was denied by the Bankruptcy Court on August 3, 2001.
20. On July 26, 2001, the U.S. Trustee filed a complaint against KISSI seeking to enjoin fraudulent and bad faith attempts to interfere with the Chapter 7 Trustee's administration of DK&R's corporate Chapter 7 proceeding and further attempts to exert control over estate bank accounts and postpetition rent payments to the estate. On July 27, 2001, the Bankruptcy Court issued a Temporary Restraining Order enjoining KISSI from unlawfully asserting control over estate assets, including the Riggs Hill condos and the

bank accounts. On January 9, 2002, the Bankruptcy Court entered a second Temporary Restraining Order enjoining KISSI from pursuing litigation against Sarah Manning (the U.S. Trustee's witness in the DK&R conversion hearing). On May 14, 2002, the Bankruptcy Court issued a permanent injunction enjoining KISSI from unlawfully interfering in the administration of Chapter 7 proceeding and from continuing litigation against Ms. Manning.

21. Not to be deterred, on July 30, 2001, KISSI again filed a motion, this time in his Chapter 13 case, to convert the DK&R bankruptcy from a Chapter 7 to a Chapter 13 and sought to consolidate the two cases. The court denied those motions as well.
22. Your affiant knows based on conversations with the U.S. Trustee that KISSI continued to file pleadings to avoid the progress of the Chapter 7; this time captioning the motion as one to reconsider the order denying the motion to convert the chapter case from 7 to a 13 on August 13, 2001. The court denied the motion on August 31, 2001.
23. On August 9, 2001, Trustee Kremen filed a motion to dismiss KISSI's First Chapter 13 bankruptcy because KISSI sought to use the Chapter 13 case to interfere in Trustee Kremen's administration of the DK&R estate. Trustee Goldberger also filed a motion to dismiss KISSI's First Chapter 13 bankruptcy for KISSI's failure to attend the 341 meeting on August 30, 2001. KISSI filed his opposition on September 6. The next day, KISSI sued his former bankruptcy counsel in PG County alleging mental anguish, fraud and negligent misrepresentation in connection with representation of DK&R during the Chapter 11 proceeding and seeking damages of \$102,000. This was one of over 10 lawsuits KISSI would file over the next 24 months against individuals associated with KISSI's litigation only because of their professional responsibilities connected to the bankruptcy. The PG County case KISSI filed against his attorney was removed to bankruptcy court and summary judgment was granted in favor of the attorney in October 2001.
24. On November 29, 2001, Trustee Kremen filed a motion to compel KISSI to attend a Section 341 Meeting of Creditors. The Bankruptcy Court granted the motion on December 3, 2001 over KISSI's objection. Notwithstanding this order, KISSI did not appear and testify at the 341 Meeting.
25. Around this time, Trustee Kremen sought court approval to employ a broker (Thomas L. Nordlinger and Transwestern Commercial Services) to sell DK&R's four warehouse units which the court granted on October 19, 2001. Trustee Kremen intended to sell DK&R's assets (the warehouses) to repay the creditors that DK&R owed; the primary creditor being Pramco and another bank, Allfirst.
26. In December 2001, KISSI sued Ms. Manning, the lessee of the Riggs Hill units, in state court falsely alleging misrepresentation and perjury at the hearing on conversion of



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DK&R's case from Chapter 11 to Chapter 7 and claiming damage to KISSI's reputation and seeking damages of \$2,000,000. The case was dismissed after removal to the federal bankruptcy case. Not to be deterred again; KISSI appealed.

27. Also in December 2001, KISSI sued Trustee Kremen in the District of Columbia alleging negligence and fraud for pursuing liquidation of assets after conversion from Chapter 11 to Chapter 7 proceeding and seeking damages of \$2,000,000. Again, the case was transferred to the federal bankruptcy proceedings and was dismissed in August 2002. Prior to the dismissal of this case, KISSI petitioned for a writ of mandamus in February 2002 regarding the transfer to the bankruptcy court; that petition was denied as was KISSI's motion for rehearing.
28. In January 2002, Pramco filed three separate actions against the KISSIs in the United States District Court for the District of Maryland ("the Guaranty Actions"), seeking to recover the outstanding indebtedness on the Riggs Hill loans from the KISSIs pursuant to the KISSIs' personal guarantees of the Loans. The KISSIs disputed liability to Pramco.
29. The Bankruptcy Court dismissed the First KISSI Chapter 13 Bankruptcy in October 2002. KISSI immediately filed a motion to reconsider the dismissal, appealed the order, filed another reconsideration motion, a motion to suspend the proceedings pending appeal, and a third motion for reconsideration, as well. KISSI also sued Trustee Goldberger alleging negligence and seeking damages of \$2,000,000. The case was dismissed.
30. On February 24, 2003, Judge Peter J. Messitte, United States District Court for the District of Maryland, ruled orally that Pramco was entitled to summary judgment for a sum certain against the KISSIs jointly and severally in all three of the Guaranty Actions for approximately \$728,000 which included the amounts of the original loans, interest, late fees and attorney fees. Judge Messitte entered judgments in favor of Pramco; appeals by KISSI and Truvillion were subsequently affirmed by United States Court of Appeals for the Fourth Circuit.
31. In the Guaranty actions, Pramco alleged, and the court subsequently found, that KISSI filed false schedules of assets and obstructed the First KISSI Bankruptcy proceedings. In these schedules, KISSI made false statements about his own assets, liabilities and financial affairs. He signed these schedules under oath.
32. KISSI then sued Trustee Goldberger in Howard County, Maryland on January 29, 2002 alleging negligence and seeking damages of \$1,000,000. The matter was removed to U.S. Bankruptcy Court. The case was dismissed and the dismissal affirmed on appeal to Court of Special Appeals, but only after Trustee Goldberger incurred material costs for defending the action - costs which had to be borne by the bankrupt estate and, according to the U.S. Trustee, to the detriment of creditors.

33. At around this time, KISSI also sued the attorney for Pramco, Emil Hirsch, in Howard County alleging mental anguish, fraud and misrepresentation in the filing of a proof of claim against the bankruptcy estate and seeking damages of \$2,000,000. This would be the first of two lawsuits against Mr. Hirsch.
34. In or about January 2003, the court issued an Order allowing Trustee Kremen to sell the Distribution Place Unit. KISSI filed various pleadings to stop the sale. Then, KISSI acting on behalf of the Ammendale Trust became the highest bidder on the sale.
35. KISSI filed a motion to dismiss the Chapter 7 proceedings on February 4, 2003. Before the district court could enter a written order confirming its summary judgment ruling on Pramco's Guaranty Actions, in March 2003, KISSI filed his second individual Chapter 13 bankruptcy proceeding (KISSI's Second Bankruptcy). KISSI's Second Bankruptcy was subsequently dismissed in July 2003 because KISSI used the case, based on findings by the bankruptcy court, to "take actions without merit to delay administration of the Chapter 7 case", which "actions have necessarily increased expenses of administration in the DK&R case", and because KISSI is not an eligible Chapter 13 debtor. KISSI appealed; the appeal was dismissed.
36. In April 2003, KISSI sued Pramco's lawyer, Emil Hirsch, in Baltimore City alleging he filed a "false" and "doubtful" claim against the bankruptcy estate and seeking damages of \$25,000. Judgement was entered in favor of Pramco's counsel.
37. In addition in April 2003, KISSI filed seven frivolous and separate lawsuits in the District Court of Baltimore City all of which were done so to defraud the bankruptcy estate and creditors of DK&R and proceedings and to obstruct the proceedings and court orders entered in connection thereto by harassing and intimidating numerous professionals associated with the DK&R Bankruptcy. For example, KISSI falsely claimed that Pramco employee Nunan filed a "false" and "doubtful" claim against the bankruptcy estate, and stating that Pramco's counsel will be "nailed in a separate court action" and seeking damages of \$25,000. The complaint was dismissed. KISSI sued Pramco employee, Turnia for replevin for executing affidavit in support of Pramco's claims against the bankruptcy estate and seeking damages of \$25,000 (case dismissed). KISSI sued Trustee Kremen for replevin alleging that the Trustee "supported Pramco's hearsay claims" and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The case was dismissed. KISSI sued Pramco's former counsel, Mr. Wiser, for replevin for "teaming up with others to seize my estate" and malicious interference in connection with The Money Store loans sold to Pramco and seeking damages of \$25,000. The case was dismissed. KISSI sued former counsel Levin for replevin in connection with representation at time of conversion and seeking damages of \$25,000. The complaint was dismissed. KISSI sued an employee of the SBA, Mr. Barilla, for replevin for filing claim "initiated to ruin my estate" and seeking damages of \$25,000 (case dismissed). KISSI sued a second SBA employee, Stephenson, for replevin for representing SBA which

- allegedly "colluded" with The Money Store and seeking damages of \$25,000 and return of bankruptcy estate property. The case was dismissed. KISSI sued the broker in the Chapter 7 case, Baxley, for replevin alleging mental anguish, fraud and misrepresentation because he "aided and abetted with others to sell" bankruptcy estate property and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The case was dismissed. KISSI sued Mr. Neal, the Assistant U.S. Trustee, for replevin falsely alleging perjury and that he "conspired with my tenants to seize my estate and liquidate it and enrich themselves" and seeking damages of \$25,000 and return of bankruptcy estate property (Riggs Hill units). The complaint was dismissed.
38. On April 17, 2003, KISSI filed amended schedules in his Second Chapter 13 Bankruptcy. In these schedules, he again failed to accurately and completely describe and disclose his assets, liabilities and financial affairs. He signed these schedules under oath as well. KISSI also stated in his plan that he will pay his creditors using rental income from the Riggs Hill properties. According to the U.S. Bankruptcy Trustee, this was an improper attempt to fraudulently convert DK&R estate property again.
39. On April 28, 2003, KISSI filed an amended Schedule D listing Truvillion (his wife) as a secured creditor in the Second KISSI Bankruptcy with a claim totaling \$1,290,000. He identified the Riggs Hill property as her collateral. When Trustee Kremen subsequently sold the Riggs Hill Units (see paragraph 42 infra.), the title company did not locate any recorded documents purporting to grant Truvillion a security interest in the property. Your affiant believes based on the totality of circumstances in this case that it is probable that no such documentation exists and that the statement of her security interest is patently false.
40. Also on April 28, 2003, Truvillion filed a false proof of claim asserting a "priority or seniority claim" in the amount of \$1,290,000. Again, the false proof of claim was made to defraud the creditors of the DK&R Bankruptcy. Truvillion did not attach any supporting documentation to the proof of claim.
41. On June 5, 2003, Trustee Kremen sought relief in the United States Bankruptcy Court for the District of Maryland from the baseless and obstructive lawsuits and motions KISSI continually filed. Trustee Kremen sought injunctive relief to prevent KISSI and his agents from filing pleadings regarding the performance of the Trustee or professionals hired by the DK&R bankruptcy estate without prior approval from the Bankruptcy Court. The Bankruptcy Court scheduled a hearing on the contested request for injunctive relief for July 17, 2003, and later rescheduled the hearing for August 5, 2003. According to the U.S. Trustee's office, Trustee Kremen did not need to proceed with this injunction complaint because any order entered in this proceeding would have been duplicative of Judge Messitte's order entered after this injunction action was commenced.
42. In the Summer of 2003, Trustee Kremen moved to sell the Riggs Hill Units. KISSI

objected to the sales. KISSI also caused his wife, Truvillion, to object to the sale. According to the U.S. Trustee, there was no bona fide basis for the KISSI's to object to the sales. The Bankruptcy Court approved the sales over KISSI's and Truvillion's objections.

43. In July 24, 2003, the Bankruptcy Court issued yet another notice of Meeting of Creditors (First Meeting Reset to 08/15/03) in the Chapter 7 DK&R Bankruptcy.
44. On July 28, 2003, a confirmation hearing was held in KISSI's Second Chapter 13 Bankruptcy case; confirmation denied without leave to amend. The case was dismissed because: (i) KISSI was ineligible for Chapter 13 relief due to the size of his unsecured debts, as evidenced by the Final Judgments, (ii) KISSI's Plan sought to impermissibly interfere with the administration of DK&R's bankruptcy estate and (iii) the case was filed in bad faith. As a sanction, the Bankruptcy Court dismissed the KISSI Second Chapter 13 Bankruptcy Case with prejudice to KISSI's filing of any Title 11 bankruptcy case for a period of one year after July 28, 2003. Your affiant believes that, based on KISSI's actions, the district court's ability to actually enter orders granting summary judgment and eventually find judgments in the Guaranty Actions was hindered, impeded and delayed from February 27, 2003 when proposed orders granting summary judgment were submitted to this Court for entry. This delay resulted from KISSI's Second Chapter 13 bankruptcy case.
45. On the eve of the closing, KISSI sued the bona fide purchaser of the bankruptcy estate property Riggs Hill Unit U in Howard County on July 28, 2003 in order to block the sale of the property that would have inured to the benefit of the bankrupt estate of DK&R. That case was dismissed.
46. In or about August 2003, KISSI sued Pramco's employee again - this time in the District of Maryland, alleging she filed a "false" and "doubtful" claim against the bankruptcy estate, stating that Pramco's counsel will be "nailed in a separate court action" and seeking damages of \$25,000. The complaint was dismissed.
47. On August 1, 2003, Pramco filed a Complaint against the KISSIs in the United States District Court for the District of Maryland, Civil Action No. PJM 03-3241 ("the Pramco Litigation"). That Complaint sought a temporary restraining order, preliminary injunction, and permanent injunction forbidding the KISSI's from, among other things, filing frivolous and vexatious pleadings and litigation.
48. That same day, Judge Messitte issued a Temporary Restraining Order in the Pramco Litigation ("the TRO") on August 4, 2003. The first numbered paragraph of the TRO provided that the KISSIs, and "their agents and persons acting in concert with them are enjoined and restrained from continuing or instituting any actions or proceeding in any state court or in any United States court which constitutes a collateral attack on any order

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or judgment of this Court, which is currently the subject of a pending direct appeal by the Defendants to the United States Court of Appeals for the Fourth Circuit including any attempt to re-litigate, reopen, reconsider, vacate or in any manner challenge or undermine the validity of any such order or judgment of this Court." The second numbered paragraph of the TRO provided that as to "any action or proceeding not prohibited by Paragraph 1 hereof, KISSI, Truvillion, their agents and any persons or entities acting in concert with them or on their behalf are hereby enjoined and restrained from filing any pleadings, actions or proceedings without prior leave of this Court." The TRO ordered Pramco to file a \$50,000 bond within four days, and provided that the TRO would not become effective "until the date of issuance of said bond."

49. On August 5, 2003, counsel for Pramco served the TRO on the KISSIs by facsimile, Federal Express, and regular mail.
50. At the August 5 hearing in Bankruptcy Court on the DK&R Trustee's motion for temporary injunction and preliminary injunction, KISSI demonstrated his awareness of the TRO by describing it as unlawful. During the hearing, KISSI was informed that Pramco was in the process of securing the \$50,000 bond required by the TRO, and that Pramco anticipated filing that bond within days.
51. On August 7, 2003, Pramco filed the \$50,000 bond required by the TRO.
52. On or about August 8, 2003, KISSI and Truvillion jointly filed a counterclaim against Pramco in the Pramco litigation without seeking leave of court, as required by the TRO.
53. On or about August 11, 2003, KISSI and Truvillion jointly filed a document captioned "Our Second Motion to Dismiss Pramco's Complaint of Harrassment [sic], Restraining Order and Appointment of a Receiver" in the Pramco litigation without seeking leave of court, as required by the TRO.
54. On August 13, 2003, KISSI filed without seeking leave of Court as required by the TRO, a pleading in the Circuit Court for Howard County, Maryland entitled "Notice Of Lis Pendens For The Property Located At 10630 Riggs Hill Rd., Units U, V and W, Annapolis Junction, MD 20794. See Maryland Rule 12-102."
55. In August 2003, KISSI caused service of a complaint of fraud against Gary Wilson filed in the Circuit Court of Howard County, Maryland. Wilson was the bona fide purchaser of Riggs Hill Unit U. Your affiant believes KISSI filed this pleading to further impede the administration of the bankrupt estate.
56. On August 18, 2003, KISSI filed a pleading in the District Court for Baltimore City, Maryland entitled "Line Item Notice Of Lis Pendens For The Property Located At 10630 Riggs Hill Rd., Units U, V and W, Annapolis Junction, MD" which your affiant believes

was to cloud the title to the property Trustee Kremen had been authorized by the Bankruptcy Court to sell.

57. In August 21, 2003, at the preliminary injunction hearing, Trustee Kremen testified under oath that he was appointed panel trustee in DK&R Co. Bankruptcy in July, 2001. He provided a summary to the district judge of some of the facts set forth above. Trustee Kremen testified that KISSI and DK&R sued him three times. Bankruptcy Judge Derby had ruled any further actions had to be brought in bankruptcy case, but KISSI sued in Maryland State district court anyway. Trustee Kremen explained to Judge Derby that he hired a broker, Mr. Baxley, to sell the 3 units known as Riggs Hill. Mr. Baxley produced contracts and Trustee Kremen then filed motions to sell the condo units free and clear. Judge Derby approved the first sale last week, and the motion on the other two is pending. In August 2003, KISSI refused to attend the 341 hearing. Judge Derby entered an order requiring his appearance; still KISSI never appeared. Later, KISSI falsely claimed that Trustee Kremen hadn't scheduled a 341 hearing, so Trustee Kremen scheduled a second meeting; KISSI didn't appear again. Trustee Kremen then closed DK&R's bank accounts containing approximately \$11,000. When Trustee Kremen tried to collect rent for the units, KISSI interfered with those attempts. Trustee Kremen explained that KISSI sued Mr. Baxley and recently sued the buyer. Finally, Trustee Kremen testified that he filed a motion for a TRO seeking to enjoin KISSI from litigating.
58. By October 2003, the District Court initiated criminal contempt proceeding for KISSI's and Truvillion's willful violations of the District Court's temporary restraining order and preliminary injunction for, among other things, suing the purchaser of estate property, filing a notice of lis pendens relating to estate property (Riggs Hill units), and filing pleadings attacking Pramco's claims. The proceedings were brought by a Special Counsel appointed by the Court who filed an Information on these charges on or about October 14, 2003.
59. KISSI was represented by counsel in the contempt proceedings. Both KISSI and Truvillion pled guilty to criminal contempt.
60. In October 2004, Trustee Kremen applied for allowance of his fees. At a hearing in January 2005, the Bankruptcy Court approved Trustee Kremen's fees and expenses over the objections of KISSI and Truvillion.
61. On October 25, 2004, Judge Messitte sentenced KISSI to incarceration and five years of unsupervised probation and Truvillion to five years of unsupervised probation for criminal contempt [8:03-cr-00473-PJM]. U.S. Probation advised of a technical problem with the sentencing and a re-sentencing was required.
62. At the re-sentencing on November 24, 2004, the Judge Messitte indicated that it would not go forward with the sentences originally imposed in connection with the contempt

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proceeding (10 days jail time for KISSI and supervised release terms for both he and TRUVILLION). KISSI's behavior at the sentencings and re-sentencing continued to be obstructive and contumacious. Therefore, the Court indicated it would refer KISSI's conduct to the U.S. Attorney's Office to review the full scale of Defendant's conduct throughout the proceedings for investigation into possible obstruction of justice and contempt charges.

63. By the end of the year 2004, KISSI embarked upon a letter writing campaign that contained references to the court (Judge Messitte) as a racist against minorities including describing Judge Messitte as "being so prejudice he makes a Klansman from Alabama look like a saint." The latter comment was made in a letter mailed and dated December 29, 2004 from David Kissi to Professor Alan M. Dershowitz and was copied to U.S. Supreme Court Chief Justice William Rehnquist, the US Attorney for the District of Maryland, The Washington Post, and The New York Times, among others. There is absolutely no evidence in the record to support such baseless accusations against the Court.
64. Despite the restraining order Judge Messitte preliminary put in place, KISSI wrote a letter to Bankruptcy Judge Derby on December 3, 2004 in which he falsely noted that Judge Messitte included a notice to permanently bar the KISSI's from any American courtroom. In fact, the TRO barred suits regarding the Riggs Hill Units only. KISSI stated the notice was to make the "unsavory Emil Hirsch happy" and produced "so much outcry" that Judge Messitte "suspended the harsh sentence", and referred the case to the U.S. Attorney's Office and claimed the Justice Department is "also investigating Messitte and Emil Hirsch for violating our Civil Rights as minorities." These latter statements to Judge Derby are patently false.
65. At the end of the December 9, 2004 hearing on Trustee Kremen's application for fees in the Bankruptcy Court, KISSI approached Trustee Kremen's attorney, Mr. Kobbe and yelled "you don't know me" several times. KISSI then approached Trustee Kremen and yelled that Trustee Kremen "stole my money" and "you'd better get it back." As KISSI was being escorted out of the courtroom by court security officers, KISSI yelled "I will get you" directly at Trustee Kremen. Assistant U.S. Trustee Neal and others were sitting nearby within earshot in the courtroom.
66. On January 13, 2005 Judge Messitte issued a Memorandum Order in the various civil actions pending in U.S. District Court involving Pramco and KISSI.
67. Sometime prior to January 20, 2005, Mr. Hirsch contacted the Montgomery County Police Department about safety concerns he had because of KISSI's letter writing campaign against him and Judge Messitte.
68. On or about January 20, 2005, KISSI left the following messages on the answering

machine for Mr. Hirsch located in Washington D.C. It states:

11:54 a.m., January 20, 2005, 60 seconds

Emil Hirsch. This is Dave KISSI. I would like to meet you and we go over your bogus judgment. So we resolve it finally. I like to meet you okay and resolve the bogus judgment. Okay? I like to meet you. I can come to your office or we can go the McDonald's across the street or I can come to your house with my lawyer. We would like to meet you and resolve all this trouble you have been doing to us. Call me back. Dave KISSI. 301- 520-2557. You like to resolve this finally? You like you meet me in your office or at McDonalds or we come to your house. Tell us which you want. But if we don't hear from you we come to your house. I'll come with my lawyer and, uh, we resolve it in front of your family. Show that, uh, we are honest people. We are first class American citizens and we would like to resolve this matter and get it over with. Okay?

Mr. Hirsch contacted the police about this message.

69. On or about 4:22 p.m., January 20, 2005, KISSI left a second message on the answering machine for Mr. Hirsch located in Washington D.C. It states:

Mr. Hirsch. I would like to meet you with my lawyer and we go over everything and show that you collected a bogus judgment. Okay? My lawyer would like to meet you and show you collected a bogus judgment. Okay? You don't want to meet my lawyer, we come to your house and show your family how you make your living as bill collector. You are just a little fucking Shylock. And after that you are going to be deported back to Poland or Romania. A poor place where donkey still is useful transportation and Volkswagen will never even hire you fucking little Jew to wash the floor at Volkswagen factory. You bastard. You see something. Okay? You stole all my money. You gotta get my money back. My lawyer would like to talk to you

Following this message, Mr. Hirsch sought protective relief in the Montgomery County District Court. KISSI and Mr. Hirsch attended the January 24, 2005 hearing but the court was unable to grant Mr. Hirsch relief because, according to Mr. Hirsch, the judge ruled that KISSI was entitled to notice before being told not to send threatening messages. At the hearing, KISSI made statements that the call was made on his cellular telephone. KISSI lives in Maryland.

70. Subsequently, Mr. Hirsch sought further injunctive relief in the U.S. District Court in Maryland by way of a Second Temporary Restraining Order. The hearing was held on February 9, 2005.
71. The night before the hearing, on or about February 8, 2005, KISSI faxed a letter to O'Connor & Hamman in Washington D.C. from his home in Beltsville, MD (301)937-2143. The letter is actually addressed to "Ms. Emil Shylock Hirsch" and by the substance of the letter is meant for the wife of Pramco's counsel, Emil Hirsch. In the letter, KISSI states that

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And if your husband keeps hounding us by threatening to have me jailed, giving us anxiety and sending process servers in the middle of the night looking for my wife, I am going to do the same thing to you in your household. That if your husband, Shylock Hirsch, doesn't back off from deliberately hounding us, with his friend and personal attorney, US Judge Messitte and he is still trying to shake us down by threatening to send us to jail and impose on my wife a 5 year supervised probation (something normally done to felons)... I will make sure you will face the same punishment from an impartial American jurist. Messitte will never be able to protect you from.

So, in conclusion, whatever pain and anguish your husband has given us will be returned to you by God. In the interim, if Hirsch's hounding persists, I am going to send a special process server, the County Sheriff and my lawyers after you at your home, temple, bus stop, supermarket, country club and PTA meetings in Montgomery County...

72. On February 17, 2005, Special Agents of the FBI executed a search warrant authorized by US Magistrate Judge Charles Day for 4305 Ammendale Road, Beltsville, Maryland, the residence of the KISSIs. While searching the residence, Agents seized approximately twenty-four boxes of records and four computers.

73. During the search warrant, KISSI made numerous unsolicited remarks to Special Agent James Mollica and others regarding Judge Messitte. These comments were:

"Judge Messitte is the real criminal. You can write to everybody and nobody listens. The judicial system is bullshit. I am not a drug dealer. Four out of five white collar criminals are Jews. We are not going to hire anymore Jewish lawyers. They will sell their mother for a buck."

"A black man with an accent cannot have 1.5 million dollars, so Maryland will use the court system to take it away even if it's not from drug money. Messitte is the criminal."

"Take whatever you need, the evidence will show the Judge is the real criminal. Take my house, I will get the FBI to pay me \$500,000 for it."

74. A review of the documents seized from the residence of KISSI revealed that on or about July 2003, KISSI made material false statements to the U.S. Department of Transportation (USDOT) on his application for security clearance to access USDOT facilities. KISSI, a USDOT contractor, completed a Standard Form 85P (Questionnaire for Public Trust Positions). As part of the clearance process, contractors are asked the

following question: "In the last 7 years, have you, or a company over which you exercised some control, filed for bankruptcy, been declared bankrupt, been subject to a tax lien, or had legal judgment rendered against you for a debt?" To this question, KISSI responded "no" and then certified that his answers are "true, complete and correct" and with knowledge that a "knowing and willful false statements on this form can be punished by fine or imprisonment or both." KISSI signed the form on July 17, 2003 knowing that he had filed for bankruptcy, both personal and on behalf of DK&R, within the previous 7 years. Your affiant knows that USDOT representatives believe the false statement made by KISSI to be material.

75. Your affiant knows that KISSI continues to file false and fraudulent documents in connection with his bankruptcy including documents asserting a \$1 million security interest in the bankrupt estate by his wife Edith. When Trustee Kremen noticed Edith KISSI's deposition on this issue for May 2, 2005, she failed to appear. According to the U.S. bankruptcy trustee, KISSI has not produced a shred of documentation whatsoever to support the security interest that KISSI maintains exists.

75. On May 18, 2005, your Affiant received a telephone call from Senior Inspector Rick Henry, United States Marshals Service, District of Maryland. Senior Inspector Henry advised that Judge Derby had expressed concern after receiving a letter on or about May 9, 2005 from KISSI. Judge Derby forwarded KISSI's letter to the U.S. Marshal's Service, accompanied by his own letter dated May 16, 2005, in which Judge Derby indicates that he believes KISSI's remarks are becoming a personal attack against himself and Judge Messitte. KISSI's letter accuses Judge Derby of being "part of an organized enterprise in the U.S. Court system to fraudulently strip us of all our assets." The letter further states, "I will bring a personal suit of \$100 million against you for your deliberate and malicious abuse of the U.S. Judicial System that has financial (sic) ruined us and caused us mental anguish" and "when it is all said and done, you should step aside and not preside over DK&R's matters anymore."

76. On or about May 19, 2005, KISSI left the following message on the answering machine for Maria Ruark, Senior Associate, DLA Piper Rudnick Gray Cary US. Ms. Ruark is working Trustee Kremen on the KISSI bankruptcies. The message states:

Ms. Ruark. I am Dave KISSI. I just want you to know by now, I just want you to know that you are committing a crime, real crime and eventually you will go to jail. Okay? You got to know that this whole thing is a hoax. That Pramco hasn't got a claim. You pick up the phone and call that notorious Jew Emil Hirsch and ask him, ask him whether he has got monthly, the individual records of our monthly payments on the Pramco loans.

KISSI further states:

I am going to send you to jail. I am going to do that and you will go somewhere that I have already gone to jail. You should take back your word, you should take back your word because I'm not going to jail and I haven't done anything. But these wise guys got \$400 an hour, you will go to jail. You will go to jail for fraud. Okay? You will go to jail. Kremen is already going to jail. He is a thief. Okay? So a word to the wise is enough.


KISSI concluded that his statements were a "promise" not a "threat."

77. On May 23, 2005, your affiant interviewed Ms. Ruark who expressed great concern about her and US Trustee Kremen's personal safety given the tone and substance of the message and the fact that KISSI's litigation (specifically a pending writ of certiorari to the Supreme Court) is likely to be denied. Your affiant has listened to the message and believes that the monotone and inflections of KISSI's voice are meant to be threatening and intended to influence and intimidate Ms. Ruark and Trustee Kremen. Ms. Ruark added that the previous threat to Trustee Kremen in US Bankruptcy Court in December 2004 elevated her concerns. She told your affiant that she becomes physically ill when having to speak to KISSI. Your affiant believes that Trustee Kremen and his agents are "officers" of the United States as that term is used in 18 U.S.C. Section 1503.

Your Affiant submits that the facts set forth in this affidavit establish probable cause to believe that from September 2000 through the present, DAVID M. KISSI engaged in a pattern of bankruptcy fraud in violation of Title 18, U.S.C. § 157; and threatening, intimidating and influencing an officer of the court and the due administration of justice in violation of Title 18, U.S.C. § 1503.

As a result of the above, this Affiant respectfully requests that an arrest warrant be issued authorizing your Affiant and other law enforcement officers/agents to arrest DAVID KISSI.

Further your affiant sayeth not.


Thomas E. Simmons
Special Agent, FBI

Sworn before me this 24th day of May, 2005


William Connelly
United States Magistrate Judge

Affidavit

In Support of David Kissi's Assertion that the FBI
Failed to Read Him His Miranda Rights Upon His Arrest on 5/10/2005

The whole world may note that I am at least 21 years of age, I am also of sound mind and that I do have a firsthand knowledge of this matter.

That I further swear under Oath that on 5/10/2005 early AM, two FBI Agents, both white men, knocked at our door in Beltsville, MD. When my husband, David Kissi, opened the door, one of the FBI Agents enticed my husband into a quick conversation. When my spouse politely responded, the FBI Agent did accuse him of being inclined to harm a judge and they immediately arrested him without reading him his Miranda Rights.

That I swear there was no probable cause and neither was my spouse violent and this being the case, all else that followed in the matters of David Kissi v Pramco and U.S. v David Kissi should be dismissed for the FBI's failure to read David Kissi his Miranda Rights made inadmissible other cases connected to the arrest.

Respectfully Submitted by:

Edith R. Truvillion 12/30/19

Edith R. Truvillion
Spouse of David Kissi for 37+ yrs
PO Box 2185
Arlington, VA 22202
202-210-399

*NB: And whosoever wishes to contest
this Affidavit should do so under Oath
& Affidavit or else that person will lose
his/her chance to contest this Affidavit forever.*

Notary:

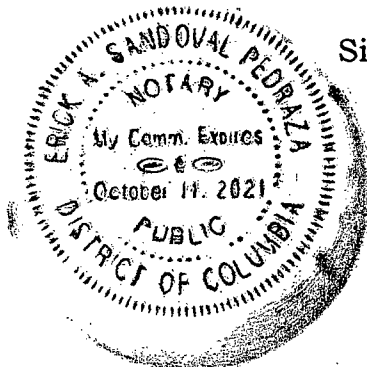
EW

Subscribed and sworn to before me a Notary Public for Washington, DC
(City/County)

My Commission Expires: 10/14/2021

Signed by:

Edith



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