

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:   
UNITED STATES OF AMERICA : CONSENT ORDER FOR CREATION OF  
: RECEIVERSHIP AND APPOINTMENT OF  
-v.- : RECEIVER PURSUANT TO  
: 18 U.S.C. § 983(j) AND 21 U.S.C. § 853(e)  
ROBERT EGAN, :  
: 10 Mag. 238  
Defendant. :  
:   
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**WHEREAS**, on February 8, 2010, ROBERT EGAN, the defendant (“Egan” or the “defendant”), was charged in a complaint (the “Complaint,” a copy of which is attached hereto as Exhibit A) with conspiracy to commit bank fraud in violation of Title 18, United States Code, Sections 1349 and 1344;

**WHEREAS**, the Complaint alleges that Mount Vernon Money Center (“MVMC”) is engaged in various cash management businesses through various operating entities, including operating a cash vault and replenishing cash in Automated Teller Machines (“ATMs”) owned by third parties, and further alleges that EGAN is the President of MVMC;

**WHEREAS**, on February 11, 2010, the Honorable Richard M. Berman, sitting in Part I, entered a Consent Order for Restraint and Seizure of Property Pursuant to 18 U.S.C. § 981(b)(1) and 21 U.S.C. §§ 853(e) and (f) (the “Consent Restraining Order,” a copy of which is attached hereto as Exhibit B), which prohibited, among other things, any action that would have the effect of depreciating, damaging, or in any way diminishing the value of the following properties:

All assets, real and personal, including but not limited to any and all bank accounts and brokerage accounts, owned or controlled by MVMC and/or any of its subsidiaries, affiliates, and operating entities, including but not limited to ATM Management Services, LLC, Armored Money Services, LLC, and District Security Services, LLC;

**WHEREAS**, Title 18, United States Code, Section 983(j)(1)(B) authorizes a court to “create receiverships, appoint conservators, custodians, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to civil forfeiture,” prior to the filing of a civil forfeiture complaint, “if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that-- (i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and (ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered”;

**WHEREAS**, pursuant to Title 18, United States Code, Section 983(j)(2), such an order shall be effective for not more than 90 days, unless extended for good cause shown or unless a civil forfeiture complaint is filed;

**WHEREAS**, Title 21, United States Code, Section 853(e)(1)(B) authorizes a court to enter “a restraining order or injunction . . . or take any other action to preserve the availability of” forfeitable property, prior to the filing of an indictment or information, if “after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that--(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and (ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered”;

**WHEREAS**, pursuant to Title 21, United States Code, Section 853(e)(1)(B), such an order shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information has been filed;

**WHEREAS**, potential creditors and claimants of the defendant, MVMC, and/or its subsidiaries, affiliates, and operating entities, including but not limited to ATM Management Services, LLC, Armored Money Services, LLC, District Security Services, LLC, NowCash Ltd., Montgomery Check Cashing Corp., and Manhattan Money Branch (collectively, the “Affiliated Entities”), have contacted the Government to ask about asserting claims against the defendant, MVMC and/or the Affiliated Entities;

**WHEREAS**, the Government has learned that ATMs owned and/or controlled by MVMC and the Affiliated Entities are quickly losing funds and require immediate attention in order to preserve the assets and prevent further rapid deterioration of the businesses;

**WHEREAS**, the Government has received reports of alleged thefts of funds from ATMs and armored cars owned and/or controlled by MVMC and the Affiliated Entities;

**WHEREAS**, the defendant and MVMC, by and through their counsel, stipulate and agree that the creation of a receivership is necessary, pursuant to 18 U.S.C. § 983(j) and 21 U.S.C. § 853(e), to preserve the availability of the assets of MVMC and the Affiliated Entities;

**NOW, THEREFORE,**

**I.**

**IT IS HEREBY ORDERED** that: Allen D. Applbaum, FTI Consulting, is appointed as receiver for the assets of MVMC and the Affiliated Entities, including defendant’s interests in MVMC and the Affiliated Entities, to (i) preserve the status quo, (ii) ascertain the financial

condition of MVMC and the Affiliated Entities; (iii) prevent further dissipation of the property and assets of MVMC and the Affiliated Entities; (iv) prevent the encumbrance or disposal of property or assets of MVMC and the Affiliated Entities; (v) preserve the books, records and documents of MVMC and the Affiliated Entities; (vi) be available to respond to inquiries by creditors of MVMC and the Affiliated Entities; and (vii) protect the assets of MVMC and the Affiliated Entities from further dissipation.

To effectuate the foregoing, the receiver is empowered to:

- (a) Take and retain immediate possession and control of all of the assets and property, and all of the books, records and documents of, MVMC and the Affiliated Entities (and each's subsidiaries) that have not already been seized by law enforcement;
- (b) Have exclusive control of, and be made the sole authorized signatory for, all accounts at any bank, brokerage firm or financial institution that has possession or control of any assets or funds of MVMC or of the Affiliated Entities (and each's subsidiaries);
- (c) Pay from available funds necessary business expenses required to preserve the assets and property of MVMC and the Affiliated Entities, including the books, records, and documents of MVMC and the Affiliated Entities, notwithstanding the Consent Restraining Order;
- (d) Locate assets that may have been conveyed to third parties or otherwise concealed;
- (e) Ascertain the disposition and use of funds and other property obtained by MVMC and the Affiliated Entities;
- (f) Engage and employ persons, including accountants, attorneys and experts, to assist in the carrying out of the receiver's duties and responsibilities hereunder;

- (g) Report to the Court and the parties within 15 days from the date of the entry of this Order, subject to such reasonable extensions as the Court may grant, the following information:
1. All assets, money, funds, securities, and real or personal property then held directly or indirectly by or for the benefit of MVMC and the Affiliated Entities (and each's subsidiaries), including, but not limited to, real property, bank accounts, brokerage accounts, investments, business interests, personal property, wherever situated, identifying and describing each asset, its current location and value;
  2. A list of secured creditors and other persons and/or entities with an interest in the receivership assets;
- (h) Develop a preliminary plan for the administration of the assets of the receivership, including a recommendation regarding whether bankruptcy cases should be filed for all of a portion of the assets subject to the receivership;
- (i) Take such further action as the Court shall deem equitable, just and appropriate under the circumstances upon proper application of the temporary receiver.

The receiver shall cooperate with law enforcement and shall not take any actions to interfere with law enforcement's investigation of the allegations in the Complaint and any administrative and judicial forfeiture proceedings.

## II.

**IT IS FURTHER ORDERED** that MVMC and the Affiliated Entities shall pay the reasonable costs, fees and expenses of the receiver incurred in connection with the performance

of his respective duties described herein, including, but not limited to, the reasonable costs, fees and expenses of all persons who may be engaged or employed by the receiver to assist him in carrying out his duties and obligations. All applications for costs, fees and expenses of the temporary receiver and those employed by him shall be made by application to the Court setting forth in reasonable detail the nature of such costs, fees and expenses.

### III.

**IT IS FURTHER ORDERED** that no creditor or claimant against the defendant, MVMC or the Affiliated Entities, or any person acting on behalf of such creditor or claimant, shall take any action to interfere with the control, possession, or management of the assets subject to the receivership.

**IT IS FURTHER ORDERED** that the defendant, MVMC, and the Affiliated Entities (and each's subsidiaries), and any officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of such Order by personal service, facsimile service or otherwise, and any persons with knowledge of this Order, shall not, directly or indirectly, transfer, sell, assign, pledge, hypothecate, encumber, attach, conceal, or dispose of in any manner; cause to be transferred, sold assigned, pledged, hypothecated, encumbered, attached, concealed or disposed of in any manner; or take, or cause to be taken, any action that would have the effect of depreciating, damaging, or in any way diminishing the value of the assets, funds or other property of MVMC and the Affiliated Entities, whether held in any of their names or for any of their direct or indirect beneficial interest wherever;

**IT IS FURTHER ORDERED** that the defendant, MVMC, and the Affiliated Entities

(and each's subsidiaries), and any officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of such Order by personal service, facsimile service or otherwise, and any person with knowledge of this Order, are enjoined and restrained from destroying, altering, concealing or otherwise interfering with the access of law enforcement to any and all documents, books, and records that are in the possession, custody or control of MVMC, their officers, agents, employees, servants, accountants, financial or brokerage institutions, or attorneys-in-fact, that refer, reflect or relate to the allegations in the Complaint.

**IV.**

**IT IS FURTHER ORDERED** that any persons and entities with knowledge of this Order are temporarily enjoined from filing a bankruptcy proceeding against the defendant, MVMC, and/or the Affiliated Entities without filing a motion on at least three (3) days' notice to the United States Attorney's Office for the Southern District of New York, and approval of this Court after a hearing.

**V.**

**IT IS FURTHER ORDERED** that this Order shall be, and is, binding upon the defendant and his partners, agents, servants, employees, attorneys, subsidiaries, affiliates and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile service, telephone, e-mail or otherwise, and any other persons and entities with knowledge of this Order.

**VI.**

**IT IS FURTHER ORDERED** that the United States, ROBERT EGAN, the defendant,

MVMC, and the Affiliated Entities, do not waive any arguments or defenses that they may have with respect to the forfeitability of any assets of the defendant, MVMC, and/or the Affiliated Entities. The execution of this Consent Order does not in any way constitute an admission that the charges are true or that the properties are subject to forfeiture in the event of a conviction on any charges relating to the allegations in the Complaint.



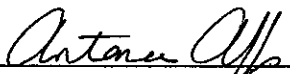
VII.

**IT IS FURTHER ORDERED** that this Court will retain jurisdiction of this case until further order of the Court, or until the filing of a criminal indictment, criminal information, or civil forfeiture complaint.

Dated: New York, New York  
February 12, 2010

Agreed and consented to:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By:   
ANTONIA M. APPS  
ANNA E. ARREOLA  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2198/2218

ROBERT EGAN

By: \_\_\_\_\_  
JAMES DEVITA, ESQ.  
Schoeman, Updike & Kaufman, LLP  
60 East 42nd Street,  
New York, NY 10165  
*Attorney for Robert Egan*

MOUNT VERNON MONEY  
CENTER

By: \_\_\_\_\_  
CLINTON W. CALHOUN, ESQ.  
Briccetti, Calhoun & Lawrence, LLP  
81 Main Street, Suite 450  
White Plains, NY 10601  
*Attorney for Mount Vernon Money  
Center*

SO ORDERED:

  
\_\_\_\_\_  
HONORABLE RICHARD M. BERMAN  
UNITED STATES DISTRICT JUDGE (PART I)

  
\_\_\_\_\_  
DATE

VII.

IT IS FURTHER ORDERED that this Court will retain jurisdiction of this case until further order of the Court, or until the filing of a criminal indictment, criminal information, or civil forfeiture complaint.

Dated: New York, New York  
February 12, 2010

Agreed and consented to:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By: \_\_\_\_\_  
ANTONIA M. APPS  
ANNA E. ARREOLA  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2198/2218

ROBERT EGAN

By: James A. Devita  
JAMES DEVITA, ESQ.  
Schocman, Updike & Kaufman, LLP  
60 East 42nd Street,  
New York, NY 10165  
*Attorney for Robert Egan*

MOUNT VERNON MONEY  
CENTER

By: Clinton W. Calhoun  
CLINTON W. CALHOUN, ESQ.  
Briccetti, Calhoun & Lawrence, LLP  
81 Main Street, Suite 450  
White Plains, NY 10601  
*Attorney for Mount Vernon Money  
Center*

SO ORDERED:

\_\_\_\_\_  
HONORABLE RICHARD M. BERMAN  
UNITED STATES DISTRICT JUDGE (PART I)

\_\_\_\_\_  
DATE

**Exhibit A**

Approved: Antonina M. APES  
ANTONIA M. APES  
Assistant United States Attorney

Before: THE HONORABLE MICHAEL H. DOLINGER  
United States Magistrate Judge  
Southern District of New York

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
- v. -	:	Violation of
	:	18 U.S.C. § 1349
ROBERT EGAN,	:	
	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK, NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

JAMES H. HILLIARD, JR., being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE

1. In or about January 2010, in the Southern District of New York and elsewhere, ROBERT EGAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 1344 of Title 18, United States Code.

2. It was a part and an object of the conspiracy that ROBERT EGAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, to wit, Webster Bank, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about January 8, 2010, ROBERT EGAN, the defendant, caused his company, Mt. Vernon Money Center, falsely to represent that it had deposited \$866,560 in a bank account for the benefit of Webster Bank, when in truth and in fact, that money had been misappropriated by Mt. Vernon Money Center for its own purposes at EGAN's direction.

(Title 18, United States Code, Section 1349.)

The bases for my knowledge of the foregoing charge are, in part, as follows:

4. I am a Special Agent with the FBI, and am currently assigned to a squad that investigates bank fraud and wire fraud, among other white collar crimes. The information contained in this affidavit is based upon my personal knowledge and my review of documents and records gathered during the course of this investigation, as well as information obtained, directly or indirectly, from other sources and agents, including information provided to me by witnesses who participated in conversations with ROBERT EGAN, the defendant. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Relevant Entities and Individuals

5. Based on my review of documents and other information, including a website for Mt. Vernon Money Center ("MVMC"), I have learned the following:

a. ROBERT EGAN, the defendant, is the President of MVMC, which has an office located at 403 East 3rd Street, Mount Vernon, NY 10553. Through various operating entities, MVMC is engaged in various cash management businesses, including operating a cash vault and replenishing cash in Automated Teller Machines ("ATMs") owned by third parties, including banks.

## The Scheme to Defraud

6. The following information is based on my review of documents provided by Webster Bank and discussions with employees of Webster Bank:

a. From at least 2003, MVMC provided the service of replenishing ATMs owned by Webster Bank with cash on a regular basis.

b. As of January 2010, MVMC performed these cash replenishing services for approximately 162 ATMs owned by Webster Bank. These ATMs are located in Westchester, New York (referred to herein as the "Webster ATMs"). The Webster ATMs would need to be replenished on a weekly basis in the total amount, depending on the season, of between approximately \$10 million and \$16 million. Webster Bank contracted with another company ("Company A") to manage these cash replenishing services provided by MVMC.

c. The Webster ATMs were replenished by MVMC in the following manner. Webster Bank would transfer by wire the amount of cash needed to replenish the Webster ATMs to an account at Bank of America for the benefit of Webster Bank. MVMC was authorized to withdraw this cash from the Bank of America account for the purpose of replenishing the Webster ATMs. Upon withdrawing the money, MVMC would typically take the cash to its own vault for the purpose of filling "canisters" that were then inserted into the Webster ATMs by MVMC employees. When a new canister was inserted into an ATM, the old canister - even if it still contained money - was removed by MVMC, and taken by MVMC to its vault. The cash left in an ATM's cannister when it was removed by MVMC is referred to as the "residual" cash. MVMC was supposed to deposit the residual cash it collected from the Webster ATMs back into Webster Bank's account with Bank of America. When MVMC collected the canisters from the Webster ATMs and deposited the residual cash into the Bank of America account, MVMC would report the fact that it had so returned the cash by an entry into Webster Bank's computer network, to which MVMC had access.

d. Between on or about January 7, 2010 and January 22, 2010, MVMC reported to Webster Bank on approximately eight separate occasions that it had collected approximately \$12,055,815 in residual cash from Webster ATMs and had either deposited this cash into Webster Bank's account with Bank of America or was retaining this cash in its vault for the benefit of Webster Bank.

e. On or about January 28, 2010, Webster learned that its account at Bank of America was short approximately \$12 million. Webster Bank immediately notified MVMC of the shortfall.

7. On or about January 29, 2010, ROBERT EGAN, the defendant, had a telephone conversation with an investigator authorized to act on behalf of Company A. The investigator recorded the call. I have reviewed the recording. During the conversation, EGAN stated, in substance and in part, that:

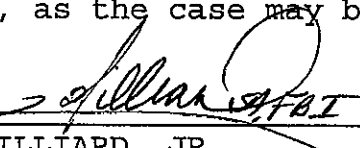
a. The \$12 million that was supposed to be returned to Webster Bank's account with Bank of America was used by EGAN to fund other "shortfalls" in MVMC's business operations, which had been caused by the unauthorized misappropriation of funds from other customers.

b. EGAN was aware that he had used Webster Bank's money to fund MVMC's business without Webster Bank's knowledge or approval; EGAN knew that such use of Webster Bank's funds was not the "right thing to do."

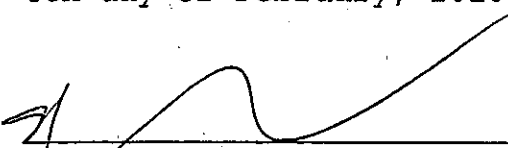
c. EGAN represented that he would attempt to return the misappropriated funds.

8. Based upon my review of publicly available information, I know that Webster Bank is and was at all relevant times FDIC insured.

WHEREFORE, deponent respectfully requests that an arrest warrant be issued for ROBERT EGAN, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.

  
\_\_\_\_\_  
JAMES H. HILLIARD, JR.  
SPECIAL AGENT  
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me this  
4th day of February, 2010

  
\_\_\_\_\_  
HONORABLE MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

**Exhibit B**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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: UNITED STATES OF AMERICA : CONSENT ORDER FOR RESTRAINT  
: : AND SEIZURE OF PROPERTY PURSUANT  
-v.- : TO 18 U.S.C. § 982(b)(1) and  
: 21 U.S.C. §§ 853(e) and (f)  
ROBERT EGAN, :  
: 10 Mag. 238  
Defendant. :  
: :  
----- x

WHEREAS, on February 8, 2010, ROBERT EGAN, the defendant, was charged in a complaint (the "Complaint," a copy of which is attached hereto as Exhibit A) with conspiracy to commit bank fraud in violation of Title 18, United States Code, Sections 1349 and 1344;

WHEREAS, the Complaint alleges that Mount Vernon Money Center ("MVMC") is engaged in various cash management businesses through various operating entities, including operating a cash vault and replenishing cash in Automated Teller Machines owned by third parties, and further alleges that EGAN is the President of MVMC;

WHEREAS, the defendant and MVMC, by and through their counsel, stipulate and agree that a restraining order is necessary, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(e), to preserve the availability of the properties described below for forfeiture:

All assets, real and personal, including but not limited to any and all bank accounts and brokerage accounts, owned or controlled by MVMC and/or any of its subsidiaries, affiliates, and operating entities,

including but not limited to ATM Management Services, LLC, Armored Money Services, LLC, and District Security Services, LLC

(collectively, the "Restrained Assets");

WHEREAS, the defendant and MVMC, by and through their counsel, stipulate and agree that a seizure warrant is necessary, pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(f), to assure of the availability of the properties described below for forfeiture:

All cash, currency and other monetary instruments, currently stored in the MVMC cash vaults located at MVMC's offices at 44 N. Sawmill River Road, Elmsford, New York, and at 140 South Columbus Avenue, Mount Vernon, New York

(collectively, the "Seized Assets");

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The defendant, MVMC, their attorneys, agents, employees, and anyone acting on their behalf, and all persons or entities acting in concert or participation with any of the above, and all persons and entities having actual knowledge of this order, shall not, directly or indirectly, transfer, sell, assign, pledge, hypothecate, encumber, or dispose of in any manner; cause to be transferred, sold assigned, pledged, hypothecated, encumbered, disposed of in any manner; or take, or cause to be taken, any action that would have the effect of depreciating, damaging, or in any way diminishing the value of the Restrained Assets and the Seized Assets.

2. The provisions of paragraph 1 shall remain in effect for a period of 30 days, except that the United States Attorney's Office for the Southern District of New York, in its discretion, is authorized to direct the release of assets restrained herein.

3. The Federal Bureau of Investigation ("FBI"), the United States Marshals Service (the "USMS"), and/or their designees, are authorized to take custody of the Seized Assets. The USMS shall maintain custody of the Seized Assets pending resolution of this criminal case.

4. The United States, ROBERT EGAN, the defendant, and MVMC do not waive any arguments or defenses that they may have with respect to the forfeitability of the Restrained Assets and Seized Assets. The execution of this Consent Order for Restraint and Seizure of Property does not in any way constitute an admission that the charges are true or that the properties are subject to

forfeiture in the event of a conviction on any of the charges in the Complaint.

Dated: New York, New York  
February 11, 2010

Agreed and consented to:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By: *Antonia Apps*  
ANTONIA APPS  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2198

2/11/2010  
DATE

ROBERT EGAN

By: *James R. DeVita*  
JAMES DEVITA, ESQ.  
ATTORNEY FOR ROBERT EGAN  
Schoeman, Updike & Kaufman, LLP  
60 East 42nd Street,  
New York, NY 10165

2/11/10  
DATE

MOUNT VERNON MONEY CENTER

By: \_\_\_\_\_  
CLINTON W. CALHOUN, ESQ.  
ATTORNEY FOR MOUNT VERNON MONEY CENTER  
Briccetti, Calhoun & Lawrence, LLP  
81 Main Street, Suite 450  
White Plains, NY 10601

\_\_\_\_\_  
DATE

SO ORDERED:

*Richard M. Berman Part I*  
HONORABLE RICHARD M. BERMAN  
UNITED STATES DISTRICT JUDGE (PART I)

2/11/10

forfeiture in the event of a conviction on any of the charges in the Complaint.

Dated: New York, New York  
February 11, 2010

Agreed and consented to:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By: \_\_\_\_\_  
ANTONIA APPS  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212)637-2198


\_\_\_\_\_  
DATE

ROBERT EGAN

By: \_\_\_\_\_  
JAMES DEVITA, ESQ.  
ATTORNEY FOR ROBERT EGAN  
Schoeman, Updike & Kaufman, LLP  
60 East 42nd Street,  
New York, NY 10165

\_\_\_\_\_  
DATE

MOUNT VERNON MONEY CENTER

By:   
CLINTON W. CALHOUN, ESQ.  
ATTORNEY FOR MOUNT VERNON MONEY CENTER  
Briccetti, Calhoun & Lawrence, LLP  
81 Main Street, Suite 450  
White Plains, NY 10601

Feb. 11, 2010  
DATE

SO ORDERED:

\_\_\_\_\_  
HONORABLE RICHARD M. BERMAN  
UNITED STATES DISTRICT JUDGE (PART I)

Approved: Antonia M. APBS  
ANTONIA M. APBS  
Assistant United States Attorney

Before: THE HONORABLE MICHAEL H. DOLINGER  
United States Magistrate Judge  
Southern District of New York

----- x

UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
- v. -	:	Violation of
	:	18 U.S.C. § 1349
ROBERT EGAN,	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK, NEW YORK

----- x

SOUTHERN DISTRICT OF NEW YORK, ss.:

JAMES H. HILLIARD, JR., being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE

1. In or about January 2010, in the Southern District of New York and elsewhere, ROBERT EGAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 1344 of Title 18, United States Code.

2. It was a part and an object of the conspiracy that ROBERT EGAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, to wit, Webster Bank, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

### Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about January 8, 2010, ROBERT EGAN, the defendant, caused his company, Mt. Vernon Money Center, falsely to represent that it had deposited \$866,560 in a bank account for the benefit of Webster Bank, when in truth and in fact, that money had been misappropriated by Mt. Vernon Money Center for its own purposes at EGAN's direction.

(Title 18, United States Code, Section 1349.)

The bases for my knowledge of the foregoing charge are, in part, as follows:

4. I am a Special Agent with the FBI, and am currently assigned to a squad that investigates bank fraud and wire fraud, among other white collar crimes. The information contained in this affidavit is based upon my personal knowledge and my review of documents and records gathered during the course of this investigation, as well as information obtained, directly or indirectly, from other sources and agents, including information provided to me by witnesses who participated in conversations with ROBERT EGAN, the defendant. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### Relevant Entities and Individuals

5. Based on my review of documents and other information, including a website for Mt. Vernon Money Center ("MVMC"), I have learned the following:

a. ROBERT EGAN, the defendant, is the President of MVMC, which has an office located at 403 East 3rd Street, Mount Vernon, NY 10553. Through various operating entities, MVMC is engaged in various cash management businesses, including operating a cash vault and replenishing cash in Automated Teller Machines ("ATMs") owned by third parties, including banks.

### The Scheme to Defraud

6. The following information is based on my review of documents provided by Webster Bank and discussions with employees of Webster Bank:

a. From at least 2003, MVMC provided the service of replenishing ATMs owned by Webster Bank with cash on a regular basis.

b. As of January 2010, MVMC performed these cash replenishing services for approximately 162 ATMs owned by Webster Bank. These ATMs are located in Westchester, New York (referred to herein as the "Webster ATMs"). The Webster ATMs would need to be replenished on a weekly basis in the total amount, depending on the season, of between approximately \$10 million and \$16 million. Webster Bank contracted with another company ("Company A") to manage these cash replenishing services provided by MVMC.

c. The Webster ATMs were replenished by MVMC in the following manner. Webster Bank would transfer by wire the amount of cash needed to replenish the Webster ATMs to an account at Bank of America for the benefit of Webster Bank. MVMC was authorized to withdraw this cash from the Bank of America account for the purpose of replenishing the Webster ATMs. Upon withdrawing the money, MVMC would typically take the cash to its own vault for the purpose of filling "canisters" that were then inserted into the Webster ATMs by MVMC employees. When a new canister was inserted into an ATM, the old canister - even if it still contained money - was removed by MVMC, and taken by MVMC to its vault. The cash left in an ATM's canister when it was removed by MVMC is referred to as the "residual" cash. MVMC was supposed to deposit the residual cash it collected from the Webster ATMs back into Webster Bank's account with Bank of America. When MVMC collected the canisters from the Webster ATMs and deposited the residual cash into the Bank of America account, MVMC would report the fact that it had so returned the cash by an entry into Webster Bank's computer network, to which MVMC had access.

d. Between on or about January 7, 2010 and January 22, 2010, MVMC reported to Webster Bank on approximately eight separate occasions that it had collected approximately \$12,055,815 in residual cash from Webster ATMs and had either deposited this cash into Webster Bank's account with Bank of America or was retaining this cash in its vault for the benefit of Webster Bank.



e. On or about January 28, 2010, Webster learned that its account at Bank of America was short approximately \$12 million. Webster Bank immediately notified MVMC of the shortfall.

7. On or about January 29, 2010, ROBERT EGAN, the defendant, had a telephone conversation with an investigator authorized to act on behalf of Company A. The investigator recorded the call. I have reviewed the recording. During the conversation, EGAN stated, in substance and in part, that:

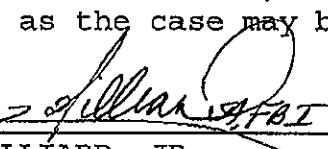
a. The \$12 million that was supposed to be returned to Webster Bank's account with Bank of America was used by EGAN to fund other "shortfalls" in MVMC's business operations, which had been caused by the unauthorized misappropriation of funds from other customers.

b. EGAN was aware that he had used Webster Bank's money to fund MVMC's business without Webster Bank's knowledge or approval; EGAN knew that such use of Webster Bank's funds was not the "right thing to do."

c. EGAN represented that he would attempt to return the misappropriated funds.

8. Based upon my review of publicly available information, I know that Webster Bank is and was at all relevant times FDIC insured.

WHEREFORE, deponent respectfully requests that an arrest warrant be issued for ROBERT EGAN, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.

  
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JAMES H. HILLIARD, JR.  
SPECIAL AGENT  
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me this  
4th day of February, 2010

  
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HONORABLE MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK