

GRAND JURY SUBPOENA DUCES TECUM

460<sup>th</sup> GRAND JURY

TRAVIS COUNTY, TEXAS

The State of Texas, to any Peace Officer:

You are commanded to summon:

**Doug Marwitz of Bancorp South Bank**  
**Bancorp South 6500 N. Mopac, Suite 1101 Austin, TX 78731**  
**Telephone: 512-231-8821 Email: [doug.marwitz@bxs.com](mailto:doug.marwitz@bxs.com)**

To appear before the Travis County Grand Jury at the courthouse in said county on the **12<sup>th</sup> day of October, 2020 at 4:00 o'clock p.m.**, at 700 Lavaca, Multifunction Space B, Room 1.113, Austin, Texas, and thereafter from day to day until he/she shall be released by the foreperson of the Grand Jury, to then and there testify as a witness and to produce the following documents and/or records:

- **All communications with the purchasers, and/or its representatives, regarding the purchase of the loan to WC Teakwood Plaza, LLC that was sold by BancorpSouth Bank.**
- **All communications with the purchasers, and/or its representatives, regarding the purchase of the loan to WC 4811 South Congress, LLC that was sold by BancorpSouth Bank.**
- **Any and all communications between the bank, its employees, and/or its representatives with any of the following individuals, and/or their representatives, since January 1, 2019: Justin Bayne, Mark R. Riley, Bryan Hardeman, Will Hardeman, and Greg Milligan.**
- **All transaction documents associated with the loan sale to 8209 Burnet, L.P. accompanied by a signed Business Record Affidavit.**
- **All transaction documents associated with the loan sale to 4811 SoCo, L.P. accompanied by a signed Business Record Affidavit.**
- **All due diligence completed by BancorpSouth Bank on the loan purchasers and its members accompanied by a signed Business Record Affidavit.**

**\*\*Call on receipt of this subpoena 713-3009291\*\***



REF 4980

**CAMMACK 001324**

**We prefer all records be provided electronically in high resolution, searchable, PDF-OCR format with an accompanying Business Records Affidavit.**

**These records are to include, but are not limited to, the following:**

1. Signature cards for all checking, savings, and/or other accounts over which the aforementioned individual(s) had or have signature authority, regardless of the account name;
2. Statements, ledger sheets, deposit slips (front and back), deposit items (front and back), cancelled checks (front and back), withdrawal slips, credit memos, debit memos, wire transfers, (detail of transfers including account numbers), and/or any other records pertaining to all checking, savings, and/or other accounts, regardless of the account name; (If possible, produce an additional copy of the statements in a non-protected Excel format.)
3. Cashier's checks, money orders, electronic payment/withdrawal advices or bank drafts purchased, and/or records necessary for identification of deposits, Online Bill Pay and/or other transactions, including but not limited to documentation supporting each transaction, source, vendor and/or recipients' name, address, account number and phone number;
4. Documents pertaining to the issuance and ownership of any and all Check Cards and Debit Cards for each account;
5. Records of all certificates of deposit, long-term savings certificates, individual retirement accounts, and/or any other financial instrument;
6. Records of all stock brokerage accounts, including but not limited to documents regarding the purchase and/or sale of stocks and/or bonds;
7. Records of any and all loans or lines of credit including but not limited to liability ledger sheets, loan and/or credit applications, financial statements, credit reports, federal tax returns, correspondence and/or memoranda in file, loan committee minutes concerning each loan, notes and/or loan agreements, records of collateral and securities, mortgage documents, records showing the disposition of loan proceeds, records of loan payments, and records of collections activity;
8. Records of any and all letters of credit including but not limited to documentation of its purpose, access and use;
9. Safe deposit box records including rental contracts, signature cards and entry records;
10. All Currency Transaction Reports (FinCEN Form 104);
11. Correspondence to and/or from the above named individual(s) and/or business(es); and
12. File maintenance records regarding name and address changes.

REF 4980

**CAMMACK 001325**

IT IS FURTHER ORDERED, that the said **Custodian of Records**, **NOT DISCLOSE THE EXISTENCE OF THIS SUBPOENA DUCES TECUM OR FACTS RELATING TO THE COMPLIANCE THEREOF EXCEPT WITH HIS LEGAL COUNSEL.** Texas Code of Criminal Procedure Art. 20.02 (h) provides that a subpoena or summons related to a Grand Jury proceeding or investigation must be kept secret to prevent the unauthorized disclosure of a matter before the Grand Jury. Any such disclosure could impede the investigation being conducted and thereby interfere with the enforcement of law.

A DISOBEDIENCE of this subpoena is punishable by fine not exceeding \$500.00 to be collected as fines and costs in other criminal cases.

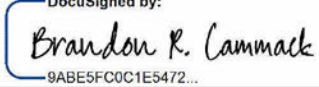
**Custodian of Records may comply with this Subpoena by delivering copies of the requested records to the officer serving this subpoena, accompanied by a completed and notarized Business Records Affidavit on or before 12<sup>th</sup> day of October, 2020.**

Please return the requested documents to the attention of Brandon R. Cammack, Special Prosecutor for the Office of the Attorney General, 4265 San Felipe Street, Suite 1100 Houston, TX 77027 or electronically to Mr. Cammack at [Brandon@cammacklawfirm.com](mailto:Brandon@cammacklawfirm.com) with an original business records affidavit mailed to the address above.

Herein fail not, and due return make hereof.

Signed on this day of 9/28/2020 | 11:16 AM CDT.

KEN PAXTON  
Texas Attorney General

DocuSigned by:  
  
By: 9ABE5FC0C1E5472...  
Brandon R. Cammack  
Special Prosecutor  
Office of the Attorney General

REF 4980

**CAMMACK 001326**

OFFICER'S RETURN

Came to hand the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_.m. and executed the day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_.m. by delivering to the within named **Doug Marwitz of Bancorp South Bank**, (hand-delivery/facsimile/electronic mail /certified U.S. mail), a true copy of the subpoena and the accompanying attachments thereto.

\_\_\_\_\_  
Investigator

REF 4980

**CAMMACK 001327**

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

**BUSINESS RECORDS AFFIDAVIT**

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_,  
who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_. I am of sound mind, capable of making this  
affidavit and personally acquainted with the facts herein stated.

I am the custodian of records, employee, or owner of \_\_\_\_\_, and I am  
familiar with the manner in which its records are created and maintained by virtue of my duties and  
responsibilities. Attached hereto are \_\_\_\_\_ pages of records from \_\_\_\_\_,  
which were kept in the course of regularly conducted business activity. The attached records are the original  
records or exact duplicates of the original records.

It is the regular practice of \_\_\_\_\_ to make the records and to make this  
type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the  
records. Further, it was the regular practice of \_\_\_\_\_ to make the records and  
regular practice for this type of record to be made by, or made from information transmitted by, persons  
with knowledge of the matters set forth in them.

\_\_\_\_\_  
Affiant

**SWORN TO AND SUBSCRIBED** before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(NOTARY STAMP)

\_\_\_\_\_  
Notary Public, State of  
My Commission expires:

REF: 4980

**CAMMACK 001328**

## INSTRUCTIONS FOR COMPLETING THE BUSINESS RECORDS AFFIDAVIT

Only Complete the Affidavit that Best Fits Your Submission

The first half is to be completed by the Custodian of Records:

1. The state in which you / the company is located.
2. The county in which you / the company is located.
3. The name of the custodian of records. This is the custodian stating his/her name, mental capacity and personal knowledge of the records.

*NOTE: The custodian of records can be anyone in your employ who is familiar with the records keeping and retrieval procedures you use. It does not have to be someone who is personally familiar with the transaction or entry that is being requested by our office.*

4. Your company's name. The custodian is certifying that all records are from the company and they are regularly kept by someone familiar with the company's record keeping practices.
5. Designated for the number of pages being produced. This entry must contain an ACCURATE page count of the records covered by the affidavit. Please note the following instructions:
  - The page count must be an exact number, not an estimate or general term such as "ALL".
  - **Do NOT INCLUDE** the Business Records Affidavit in the page count.
  - **Do NOT INCLUDE** our cover letter or the subpoena in the count.
  - **Do NOT INCLUDE** your cover letter or these instructions in the page count.
  - Please do not write notes on the records themselves, unless the note is on a post-it or "sticky" note, or some other form that can be easily removed without leaving an impression on the page. Do NOT include these as part of the page count.
  - Every single piece of paper counts as one page, regardless of whether it is larger or smaller than another record. Even if one smaller record is stapled to a larger page, it is a separate record for the purposes of the count.
  - **If the paper has writing on both sides, it is considered 2 pages.** This is true even if the 2nd page is a boiler plate or form letter, etc. It should be included in the page count.
6. The signature of the Affiant / Custodian of Records

The bottom half of the affidavit is the sworn statement of the notary. It is the notary who completes, signs and seals the affidavit:

7. Day
8. Month
9. Year
10. Name & signature of the notary
11. State in which the notary resides
12. Expiration date of their commission

Please use Black Ink. Please write legibly. Please do not use white-out. If you make a mistake, cross it out and initial it. The original Business Records Affidavit must be submitted to us.

**CAMMACK 001329**

REF: 4980

THE STATE OF \_\_\_\_\_ (1)

COUNTY OF \_\_\_\_\_ (2)

BUSINESS RECORDS AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_ (3), who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_ (3). I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of records, employee, or owner of \_\_\_\_\_ (4), and I am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities. Attached hereto are \_\_\_\_\_ (5) pages of records from \_\_\_\_\_ (4), which were kept in the course of regularly conducted business activity. The attached records are the original records or exact duplicates of the original records.

It is the regular practice of \_\_\_\_\_ (4) to make the records and to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the records. Further, it was the regular practice of \_\_\_\_\_ (4) to make the records and regular practice for this type of record to be made by, or made from information transmitted by, persons with knowledge of the matters set forth in them.

\_\_\_\_\_  
(6)  
Affiant

**SWORN TO AND SUBSCRIBED** before me on the \_\_\_\_\_ (7) day of \_\_\_\_\_ (8), 20\_\_\_\_ (9).

(NOTARY STAMP) \_\_\_\_\_ (10)  
Notary Public, State of \_\_\_\_\_ (11)  
My Commission expires: \_\_\_\_\_ (12)

Please use Black Ink. Please write legibly. Please do not use white-out. If you make a mistake, cross it out and initial it. An Original Affidavit must be submitted to us.

THE STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

**ELECTRONIC BUSINESS RECORDS AFFIDAVIT**

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of records, employee, or owner of \_\_\_\_\_, and I am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities. Attached hereto are \_\_\_\_ data storage device(s) (Please Circle One CD-R, DVD, USB Drive) of records from \_\_\_\_\_. The images on the data storage device(s) contain \_\_\_\_\_, which were kept in the course of regularly conducted business activity. The attached records are the original records or exact duplicates of the original records.

It is the regular practice of \_\_\_\_\_ to make the records and to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the records. Further, it was the regular practice of \_\_\_\_\_ to make the records and regular practice for this type of record to be made by, or made from information transmitted by, persons with knowledge of the matters set forth in them.

\_\_\_\_\_  
Affiant

**SWORN TO AND SUBSCRIBED** before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(NOTARY STAMP)

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



**INSTRUCTIONS FOR COMPLETING THE  
ELECTRONIC BUSINESS RECORDS AFFIDAVIT**  
Only Complete the Affidavit that Best Fits Your Submission

The first half is to be completed by the Custodian of Records:

1. The state in which you / the company is located.
2. The county in which you / the company is located.
3. The name of the custodian of records. This is the custodian stating his/her name, mental capacity and personal knowledge of the records.

*NOTE: The custodian of records can be anyone in your employ who is familiar with the records keeping and retrieval procedures you use. It does not have to be someone who is personally familiar with the transaction or entry that is being requested by our office.*

4. Your company's name. The custodian is certifying that all records are from the company and they are regularly kept by someone familiar with the company's record keeping practices.
5. Designated for the number of Data Storage Devices being submitted. Please circle the type of storage you are sending, ie: CR-R, DVD, USB DRIVE.
6. Please indicate the number and type of records being provided and the amount of data contained on the storage device, ie: 10 pdf files, 2 xls files, and 1 tiff file for a total of 358 **MB**.
7. The signature of the Affiant / Custodian of Records

The bottom half of the affidavit is the sworn statement of the notary. It is the notary who completes, signs and seals the affidavit:

8. Day
9. Month
10. Year
11. Name & signature of the notary
12. State in which the notary resides
13. Expiration date of their commission

**PLEASE NOTE:** We must receive the original Business Records Affidavit, signed and notarized, regardless of the type of media being submitted to us.

Please use Black Ink. Please write legibly. Please do not use white-out. If you make a mistake, cross it out and initial it.

**CAMMACK 001332**

THE STATE OF 11)  
COUNTY OF (2)

**ELECTRONIC BUSINESS RECORDS AFFIDAVIT**

BEFORE ME, the undersigned authority, personally appeared (3) \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

My name is (3)\_\_\_\_\_. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of records, employee, or owner of (4) \_\_\_\_\_, and I am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities. Attached hereto are (5) data storage device(s) (Please Circle One: CD-R, DVD, USB Drive) of records from (4)\_\_\_\_\_. The images on the data storage device(s) Contain (6) \_\_\_\_\_, which were kept in the course of regularly conducted business activity. The attached records are the original records or exact duplicates of the original records.

It is the regular practice of (4) \_\_\_\_\_ to make the records and to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the records. Further, it was the regular practice of (4)\_\_\_\_\_ to make the records and regular practice for this type of record to be made by, or made from information transmitted by, persons with knowledge of the matters set forth in them.

\_\_\_\_\_(7)\_\_\_\_\_  
Affiant

**SWORN TO AND SUBSCRIBED** before me on the (8) day of (9) \_\_\_\_\_, 20 (10)\_\_\_\_\_.

(NOTARY STAMP) \_\_\_\_\_(11)\_\_\_\_\_  
Notary Public, State of (12)\_\_\_\_\_

My Commission expires: (13)\_\_\_\_\_

Please use Black Ink. Please write legibly. Please do not use white-out. If you make a mistake, cross it out and initial it. An Original Affidavit must be submitted to us.



OFFICER'S RETURN

Came to hand the 29<sup>th</sup> day of September, 2020, at 11:30 a.m. and executed the day of 29<sup>th</sup> September, at 1:30 a.m. by delivering to the within named **Michael Doss of Independent Bank**, (hand-delivery/facsimile/electronic mail /certified U.S. mail), a true copy of the subpoena and the accompanying attachments thereto.

  
Investigator

REF 4981

**CAMMACK 001691**