

CAUSE NO. CC-17-06253C

UNITED DEVELOPMENT FUNDING, L.P, §  
A DELAWARE LIMITED PARTNERSHIP; §  
UNITED DEVELOPMENT FUNDING II, §  
L.P, A DELAWARE LIMITED §  
PARTNERSHIP; UNITED DEVELOPMENT §  
FUNDING III, L.P, A DELAWARE §  
LIMITED PARTNERSHIP; UNITED §  
DEVELOPMENT FUNDING IV, A §  
MARYLAND REAL ESTATE §  
INVESTMENT TRUST; UNITED §  
DEVELOPMENT FUNDING INCOME §  
FUND V, A MARYLAND REAL ESTATE §  
INVESTMENT TRUST; UNITED §  
MORTGAGE TRUST, A MARYLAND §  
REAL STATE INVESTMENT TRUST; §  
UNITED DEVELOPMENT FUNDING §  
LAND OPPORTUNITY FUND, L.P., A §  
DELAWARE LIMITED PARTNERSHIP; §  
UNITED DEVELOPMENT FUNDING §  
LAND OPPORTUNITY FUND §  
INVESTORS, L.L.C., A DELAWARE §  
LIMITED LIABILITY COMPANY §

Plaintiffs, §

v. §

J. KYLE BASS; HAYMAN CAPITAL §  
MANAGEMENT, L.P.; HAYMAN §  
OFFSHORE MANAGEMENT, INC.; §  
HAYMAN CAPITAL MASTER FUND, L.P.; §  
HAYMAN CAPITAL PARTNERS, L.P.; §  
HAYMAN CAPITAL OFFSHORE §  
PARTNERS, L.P.; HAYMAN §  
INVESTMENTS, LLC §

Defendants. §

**IN THE COUNTY COURT OF  
DALLAS COUNTY, TEXAS**

**COUNTY COURT OF LAW NO. 3**

**AFFIDAVIT OF ALICE ANNE BROWN**

AFFIDAVIT OF ALICE ANNE BROWN

STATE OF TEXAS

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COUNTY OF TARRANT

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BEFORE ME, the undersigned authority, on this day personally appeared Alice Anne Brown known to me to be the person whose name appears below, who upon being duly sworn, deposes and states the following:

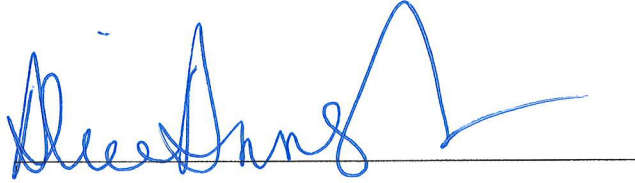
1. “My name is Alice Anne Brown. I am over eighteen (18) years of age. I have never been convicted of a felony or a crime of moral turpitude. I am of sound mind, and I am fully competent to make this affidavit.
2. “I was the Branch Center President of Legacy Texas Bank and Senior Vice President from 2008 until April 2017, at which time I retired. Through this position, I have personal knowledge of the facts stated herein, which are true and correct.
3. “Prior to December 10, 2015, Legacy Texas Bank (the “Bank”) had a lending relationship with United Development Funding III (“UDF III”) and United Development Funding IV (“UDF IV”) (collectively “UDF”). As of December 10, 2015, UDF III and UDF IV each had a Ten Million Dollar Term Loan and a Five Million Dollar revolving line of credit with the Bank. I was the lead banker who had the closest relationship with UDF. The Bank (including myself) considered UDF to be a good credit risk and provided UDF funds on good terms.
4. “On December 10, 2015, I became aware of and read an anonymous internet post concerning UDF titled “*A Texas-Sized Scheme Exposing the Darkest Corner of the REIT Business United Development Funding (UDF).*” A true and correct copy of that post is attached hereto as Annex 1 (the “post”). As soon as I became aware of the post, I sent it to my superiors at the Bank.
5. “I recall the speculation at that time that Kyle Bass was the source of the anonymous post, and I and others in the Bank made that assumption. The post caused widespread concern at the Bank because of the strong negative statements in the post about UDF’s business, especially the statements that asserted that UDF’s business was a Ponzi scheme instead of a genuine real estate business, that UDF’s business was generating returns that were not legitimate, that UDF had failed to disclose a disagreement between it and Whitley Penn about UDF’s financials that caused Whitley Penn’s termination as UDF’s auditor, that the auditor and UDF were concealing known reportable events, that UDF was taking

advantage of its investors as gullible victims, and similar statements made throughout the December 10 internet post.

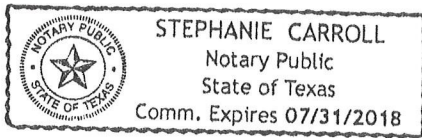
6. “The allegations in the post were not consistent with my experience with and knowledge of UDF’s business. It was my belief that Bass had taken facts about UDF’s business that were not unusual or improper, and had distorted and misrepresented them to create the impression UDF’s business was operating in a fraudulent manner based on phony real estate developments that did not generate legitimate returns. For example, the posts discussed the fact that interest payments on loans UDF made did not come from borrower’s cash flow, but rather from the loans themselves. I knew this was not unusual and in fact a common practice with development and construction loans, commonly called Interest Reserve or Interest Carry. Furthermore, at the Bank, I had regularly reviewed UDF’s collateral and related project developments and found the collateral to be sound and the project developments to be consistent with what would be expected of any comparable borrower of the Bank. I was aware of no information that would support the assertions made by Bass.
7. “As a regulated bank, the Bank felt compelled to treat the statements as potentially truthful and respond accordingly. Kyle Bass had a reputation as a powerful hedge fund manager, and so the Bank took his allegations seriously. The post caused the Bank’s entire relationship with UDF to come crashing down virtually overnight. The post also caused a panic at the Bank, as the allegations in the post implied the Bank’s loan collateral was worthless and UDF would not pay its debt to the Bank.
8. “In direct response to the negative statements in the post contained in Annex 1 as described above, the Bank decided not to lend any additional amounts to UDF, and further decided to wind down and terminate any outstanding loans and credit lines with UDF.
9. “Attached hereto as Annex 2 is a true and correct copy of a Loan Renewal, Extension and Modification Agreement that reflects some of the actions taken by the Bank in response to the posts.
10. “Ultimately after the Bank did a thorough investigation and re-appraisal of assets which were collateral for the UDF loans, the Bank concluded its loans to UDF were most likely not at risk for default. At the time I retired from the Bank, UDF had paid off significant portions of the loans.
11. “Attached hereto as Annex 3 are true and correct copies of correspondence I authored and sent to UDF while employed by the Bank. These said records, as well as the record in Annex 2, are kept by the Bank in the regular course of business; it was in the regular course of business and regular practice of the Bank that the records were made by—or from


information transmitted by—someone with knowledge of the act, event, condition, opinion or diagnosis recorded; and the documents were made at or near the time or reasonably soon thereafter.”

FURTHER AFFIANT SAITH NOT.



SUBSCRIBED AND SWORN TO BEFORE ME by the aforesaid Alice Anne Brown on this 20 day of December, 2017, to certify which witness my hand and seal of office.



  
Notary Public in and for the State of Texas

My commission expires:

7-31-18

# **ANNEX 1**

**A Texas-Sized Scheme**  
**Exposing the Darkest Corner of the REIT Business**  
**United Development Funding (UDF)**

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"Only when the tide goes out do you discover who's been swimming naked." Six years ago, the Federal Reserve set in motion one of the greatest financial experiments on record: setting interest rates at zero and seeing what happens. To this point, the result has been massive asset reflation. While what happens next is still the great unknown, low interest rates and rising asset values have provided great cover for many mistakes made over the past six years across all asset classes. The Fed has truly been the rising tide that has lifted almost all boats. Amid this rising tide, an asset class best known as public non-traded REITs emerged as a prominent retirement product sold almost exclusively to retail investors. When the tide goes out, public non-traded REITs will be exposed for the terribly flawed economics on which the \$100 billion dollar business was built.

A public non-traded REIT is public because it has the minimum number of shareholders required to be public; it is non-traded because it is not listed or traded on a major stock exchange. This product is sold to retirees as a low-risk, long-term income-producing asset that is not subject to stock market volatility – pedaled as a fixed-income product without exposure to interest rates. In reality, an investment in a public non-traded REIT is typically an investment in an illiquid "start-up" real estate company that must accumulate assets quickly and is subject to the same market risks (or greater market risks) as its publicly traded, more liquid peers which benefit from lower costs of capital.

When boiled down to the least common denominator, public non-traded REITs exist because of high upfront commissions that provide the incentive for financial advisers to sacrifice their client's best interest for their own personal greed. Prior to a non-traded REIT ever purchasing an asset which may or may not generate future positive returns, ten to fifteen percent of an investor's capital is consumed by upfront offering fees, broker commissions and asset origination fees. While the high upfront fee load incents "investment advisers" to push the product and is a primary reason why public non-traded REITs exist, it is also why so many are set to fail from the beginning.

The low interest rate environment has also contributed to the growth of the non-traded REIT asset class. Yield-starved retail investors are promised above market returns and the non-traded REITs deliver, at least initially. How can a non-traded REIT with no assets to start, subject to exorbitant fees and commissions, deliver above market returns almost immediately? First, brokers mark the investment on the investor's statements at the offering price and not the 'net' price after fees that frequently exceed 10%. Second, by raising new capital subject to astronomically high (some might even say criminal) fees and commissions and partially using the new capital to fund distributions to shareholders. The practice of paying distributions to common shareholders by raising more high friction capital from new shareholders (rather than income generated from assets) is irrational, but unfortunately, has been a staple of the non-traded REIT universe over the past several years.

The Securities and Exchange Commission (SEC) describes a Ponzi scheme as "an investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors." Not all non-traded REITs are Ponzi schemes, but almost all non-traded REITs share one of the hallmarks of a Ponzi scheme – funding distributions to shareholders with funds contributed by new investors. The difference is that non-traded REITs plainly disclose this practice. The issue is systemic, and the SEC is fully aware of the problem, highlighting non-traded REITs as one of the five most serious problems affecting retail investors going into 2015.

**A Texas-Sized Scheme**  
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The Federal Reserve, by keeping interest rates near zero, has masked the true extent of the problem as rising asset values have partially offset the carnage created by massive fees and irrational distribution practices. In the rare, most favorable scenarios, non-traded REIT managers manage to return principal at par. Retail investors consider this a win and are none the wiser; not appreciating that their illiquid investment significantly underperformed publicly listed peers. The MSCI REIT index has almost doubled in the past six years while non-traded REITs struggle to return par; usually a premium is paid for liquidity, not the other way around.

In the less favorable, more typical scenarios, net asset values actually decline as these companies mortgaged the future to pay outsized current returns, despite significant appreciation in real estate values. In the most egregious circumstances, a business model that was flawed to start (and made worse by bad stewardship) evolves into something that looks more like a Ponzi scheme than a real estate business as poor investments are masked by additional capital raises. Bad business decisions beget more bad business decisions and ultimately devolve to the point where maintaining the scheme overcomes efforts to generate legitimate returns.

The following will detail one of the most egregious cases. RCS Capital (RCAP) has been the funding mechanism by which retail capital has unassumingly and consistently made its way to United Development Funding (UDF).

The largest vintage to date, United Development Funding IV (“UDF IV”, Nasdaq ticker: UDF), markets itself to retail investors as an opportunity to diversify portfolios with “unique and fundamentally sound investments in affordable residential real estate”. In reality, UDF IV is a mortgage REIT with a high concentration of risk to a single borrower and is part of a larger family of REITs under the United Development Funding umbrella, which operates publicly listed and public non-traded REITs.

The UDF umbrella exhibits characteristics emblematic of a Ponzi scheme: (1) new capital, both equity and debt, is used to fund distributions to existing investors; (2) subsequent UDF companies provide significant liquidity to earlier vintage UDF companies, allowing them to pay earlier investors; and (3) if the funding mechanism funneling retail capital to the latest UDF company is halted, the earlier UDF companies do not appear to be capable of standing alone and the entire structure will likely unravel, with investors left holding the bag.

UDF I, the first iteration, appears to have begun as a private entity owned by limited partners, pre-financial crisis, investing as a real estate developer and as a lender to real estate developers and homebuilders. UDF I was long real estate, in a levered way, at the worst time to be levered and long real estate. As UDF I began to falter during the financial crisis, it appears that capital from a public non-traded entity, United Mortgage Trust (UMT), was used to help bail out UDF I. UDF I and UMT are affiliates, sharing common management, and management decided to issue loans from UMT to UDF I, allowing UDF I and its subsidiaries to repay various 3<sup>rd</sup> party debt.

Unfortunately, UMT was in the core business of issuing sub-prime residential mortgages, and this core business deteriorated rapidly. Enter United Development Funding III (UDF III), a separate public non-traded affiliate, also under common management control, which was used to purchase a significant “economic participation interest” in UMT’s loan to UDF I, which happened to grow exponentially throughout the financial crisis, even as UDF I defaulted on 3<sup>rd</sup> party loans. Through this mechanism, UDF III retail capital appears to have been used to repay UMT retail capital which was used to bail out UDF I. And the Ponzi-like real estate scheme was set in motion.

**A Texas-Sized Scheme**  
**Exposing the Darkest Corner of the REIT Business**  
**United Development Funding (UDF)**

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As the problem grew, UDF partnered with RCAP to raise a larger pool of funds via UDF IV. UDF IV has since provided liquidity to UDF I, UMT and UDF III, among other affiliates, further exacerbating the problem and perpetuating the scheme. After raising capital as a non-traded REIT, UDF IV closed its offering and listed on the Nasdaq in June 2014. As prior vintages continually needed a source of liquidity, RCAP was once again called upon to raise the equity, this time through the latest vintage, UDF V, with a maximum offering size of \$1 billion.

Each subsequent UDF entity appears to operate the same business, in the same markets, lending to the same borrowers, often on the exact same developments. The same three borrowers collectively account for 90% of both UDF III and UDF IV, with the largest borrower accounting for approximately 43% and 67%, respectively. What legitimate lender would expose itself to this level of concentrated credit risk, and why do multiple entities exist to do the same exact thing?

Management at UDF will argue that it has been a principal beneficiary of low interest rates, the strength of the housing recovery, the strength of the Texas economy specifically and, ultimately, rising asset values that have followed; it will also maintain that its loans are fully covered by appreciating collateral values. The macroeconomic arguments make perfect sense. How could a real estate lender in Dallas, Texas, be underwater six years into a steady recovery? On the surface, the explanation involves inheriting past sins of former funds that pre-date the financial crisis, poor stewardship, unregulated lending, and a flawed business model. Below the surface, the explanation is likely a lot more sinister.

Visits to actual development sites, which serve as collateral to UDF development loans, show that, in numerous instances, there is no development and the collateral is still non-income producing, raw land 2, 3, 5 (as much as 10) years after loans were issued. Where did all the money go if not to developments?

There is also evidence that UDF V has indirectly used new retail capital to provide liquidity to affiliates, despite specifically stating in its prospectus that it would not engage in these practices. It also appears that seventy-five percent of UDF V's loans to date have been issued to the single largest borrower of both UDF III and UDF IV, and these new loans have been used, in the majority of cases, to repay old loans issued by UDF III and UDF IV. In short, UDF V appears to be the new mechanism to provide liquidity to UDF III and UDF IV. Similar to a Ponzi scheme, it appears that UDF V investor capital is being used to return capital to UDF III and UDF IV investors. Each day that it persists, new victims are created with the most gullible money of all - retail investors and retirees - ultimately paying the price.

The cracks in UDF's facade are starting to appear. On or about October 30, 2015, a lawsuit was filed in Travis County, Texas naming UDF IV as a co-defendant in a case involving allegations of fraud, breach of contract, tortious interference and fraudulent transfer. On November 24, 2015, UMT, UDF III, UDF IV and UDF V each filed Forms 8-K revealing that their independent registered public accounting firm, Whitley Penn LLP, declined on November 19, 2015, to stand for reappointment as the auditor for each company. On the same day that it was announced to public shareholders that Whitley Penn had declined to stand for reappointment, William Kahane (who appears to be affiliated with RCS Capital, AR Capital and Nicholas Schorsch) resigned from UDF V's board. On November 30, 2015, UDF III filed an involuntary bankruptcy petition in the United States Bankruptcy Court for the Western District of Texas against UDF III and UDF IV's second largest non-affiliated borrower. On December 4, 2015, the letter attached was sent to Whitley Penn concerning its audit work and the Forms 8-K filed on November 24, 2015.



December 4, 2015

Mr. Larry Autrey  
Managing Partner  
Whitley Penn LLP  
8343 Douglas Avenue, Suite 400  
Dallas, Texas 75225

Mr. James Penn  
Mr. B. Glen Whitley  
1400 West 7th Street, Suite 400  
Fort Worth, Texas 76102

Gentlemen:

On November 24, 2015, United Development Funding III, L.P. ("UDF III"), United Development Funding IV ("UDF IV"), United Development Funding Income Fund V ("UDF V"), and United Mortgage Trust ("UMT") (collectively, the "Companies") each filed an 8-K with the Securities and Exchange Commission ("SEC") stating that Whitley Penn, LLP "has declined to stand for reappointment as the Company's independent registered public accounting firm," and its declination was "accepted by the Company's audit committee." These 8-Ks further state that

(i) there were no disagreements between the [Companies] and Whitley Penn on any matters of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Whitley Penn, would have caused Whitley Penn to make reference to the subject matter of the disagreement in its report on the [Company]'s consolidated financial statements, and (ii) there were no "reportable events" as that term is defined in Item 304(a)(1)(v) of Regulation S-K.

Whitley Penn acknowledged the filings and agreed "with the statements concerning our firm contained therein."

As you know, the Companies are affiliates of each other, externally managed or advised by the same principal group of related individuals, and generally engage in the business of unregulated lending to residential real estate developers, primarily in North Texas and to the same, small group of developers. A review of the Companies' periodic filings (Forms 10-K, 10-Q, 8-K, proxy statements and offering documents, collectively, the "Filings") filed with the SEC, a review of county property records (central appraisal districts and deed recordings) and visits to numerous project and development sites raises a number of serious questions about (i) the legitimacy of the financial and other relationships between affiliated entities and individuals and (ii) apparent accounting irregularities. In addition to potentially significant issues regarding the adequacy of the disclosures in the Filings, it also appears that there may be material misstatements in the audited financial statements for the fiscal years ending 2012, 2013 and 2014, as well as the interim quarterly filings for the same periods. These issues raise serious concerns about Whitley Penn's prior audit work, but, more importantly, Whitley Penn's specific representations to shareholders and the public market that there were no "disagreements between the [Companies] and Whitley Penn" and no "reportable events." As discussed below, there are a number of apparent irregularities that give rise to questions as to (i) whether Whitley Penn had a reasonable basis for making the representations contained in the Companies' Forms 8-K (which shareholders and the market have clearly relied upon) and (ii) whether Whitley Penn intentionally, recklessly or negligently ignored obvious red flags.

**Entities:**

Entity	Commission File Number	Corporate Address	Total Assets (Book Value)
United Mortgage Trust	000-32409	1301 Municipal Way, Suite 220 Grapevine, Texas 76051	\$182.3 million
United Development Funding III, L.P.	000-53159	1301 Municipal Way, Suite 100 Grapevine, Texas 76051	\$391.6 million
United Development Funding IV	001-36472	1301 Municipal Way, Suite 100 Grapevine, Texas 76051	\$684.1 million
United Development Funding Income Fund V	333-194162	1301 Municipal Way, Suite 100 Grapevine, Texas 76051	\$55.6 million
		<b>Total Assets</b>	<b>\$1.3 billion</b>

**Red Flags:**

- The primary assets of the Companies are loans, and the book value of assets appear to be materially overstated, either because the loans have insufficient reserves or have inadequate collateral supporting them.
- Loans appear to accrue larger and larger balances for years (more than doubling in some cases) without ever generating any cash receipts, which lead to questions about the accounting treatment of these loans, including how income is recognized and later capitalized to long-term asset accounts. This raises serious questions about the carrying value of the loans and the potential for materially overstated book value of assets.
- Management fees are assessed on the value of assets under management. If the book value of the Companies' assets is materially overstated, the external manager may have improperly received inflated management fees.
- UDF IV is not accruing any provision for loan losses despite a material outstanding balance of past due loans (loans that have matured without being repaid or extended).
- UDF III, UDF IV and UMT are not reserving against certain loans that have a high probability of being impaired (e.g. loans that remain outstanding but that have not matured).
- UDF IV's largest borrower is a private real estate developer based in Farmers Branch, Texas which does business under the name of Centurion American through a complex web of affiliated entities, which are controlled by Dallas businessman, Mehrdad Moayedi ("Moayedi") (Moayedi, Centurion American entities and their affiliates are collectively referred to as "Centurion"). Loans to UDF IV's largest borrower, Centurion, do not appear to be arms-length transactions. These loans do not appear to be repaid upon maturity, and UDF IV does not appear to receive any compensation for such extensions.

- The largest borrower of UDF III represents 43% of loans. The largest borrower of UDF IV represents 67% of loans. The largest borrower of UDF V represents 62% of loans. While this loan concentration is disclosed individually for each of the Companies, it is not disclosed that the largest borrower of each of UDF III, UDF IV and UDF V is one and the same – Centurion – and that there exists an inherent default risk across the Companies associated with this concentration in a single borrower. As a consequence, each of the Companies’ financial condition appears to be affected by, and dependent on, one another, which also does not appear to be disclosed.
- The largest borrower of each of UDF III, UDF IV and UDF V may be insolvent. This concern is based on, among other information, the fact that (i) over 95% of the loans issued to Centurion by UDF IV are not repaid when the loans mature and become due; (ii) Centurion recently defaulted on a first lien loan due to a third-party lender and a second lien loan due to UDF IV that was secured by land in Denton County, Texas; (iii) several mechanics and materialman’s liens have been filed related to Centurion in various North Texas counties, and (iv) the apparent inability of this borrower to service \$585 million in debt (outstanding principal balance) owed to UDF III and UDF IV (exclusive of any other debts owed to other entities) as well as approximately \$75 million of contractually obligated annual interest expense.
- 100% of UDF IV loans are classified as fully collectable, which is likely a material misrepresentation if the largest borrower is insolvent.
- Material conflicts exist between executives/officers and Centurion, which appear to be negatively affecting shareholders. UDF III, UDF IV and UDF V fail to fully disclose the business relationships between their officers and directors and Centurion as required by Auditing Standard No. 18 – Related Parties.
- UDF III and UDF IV’s second largest “non-affiliated” borrower is a private real estate developer based in Austin, Texas, whose principal executive is Thomas Buffington (“Buffington”). Six UDF IV loans related to Buffington have matured without being extended or repaid based on disclosures in the Form 10-Q filed for the quarter ended September 30, 2015. Buffington appears to account for approximately 10% of UDF IV’s total loan assets and has past due loans owed to UDF III that represent approximately 25% of UDF III’s portfolio. The impact of this borrower appears to be material as it is the second largest “non-affiliated” borrower of both UDF III and UDF IV.
- On or about October 30, 2015, a lawsuit was filed in Travis County, Texas, against, among others, UDF IV, several Buffington entities and Buffington, individually. See *Hanna/Magee L.P. #1 v. BHM Highpointe Ltd., et al.* (Cause No. D-1-GN-15-004985). The complaint contains allegations of fraud, breach of contract, tortious interference and fraudulent transfer and also includes specific claims that multiple Buffington entities (that have received loans and currently have outstanding balances owed to UDF IV) are insolvent.
- On November 30, 2015, UDF III filed an involuntary bankruptcy petition against an entity controlled by Buffington in the United States Bankruptcy Court for the Western District of Texas. See *In re Lennar Buffington Stonewall Ranch, L.P.* (W.D. Texas 15-11548-hcm). The amount of the claim by UDF III against the entity controlled by Buffington was \$106.5 million, which represents approximately 25% of UDF III’s total assets. Buffington and/or his affiliates have had, and continue to have, a material amount of loans past due owed to both UDF III and UDF IV. It appears that neither UDF III, nor UDF IV have disclosed (i) the litigation, (ii) the reality of the poor financial condition of its second largest “non-affiliated” borrower or (iii) the material affect this bankruptcy filing may have on the financial conditions of UDF III and UDF IV.
- There are disclosure issues regarding the percentage of loans that appear to be secured by unimproved real property. UDF III and UDF IV’s largest borrower, Centurion, has received over 75 acquisition and development loans that typically bear interest at 13% or higher. In numerous instances, Centurion has not broken ground on the development for 2, 3, 5 and 10 years after having received the 13% loan. This leads to questions about the use of

the loan proceeds (and potential misappropriation if not used for developments) and the value of the underlying collateral.

- UDF V's principal business activity appears to involve issuing loans to specific Centurion entities that have (or had) loans due to UDF III and UDF IV. UDF V funds appear to be used to repay loans owed to UDF III and UDF IV by Centurion, which is not disclosed to UDF V shareholders. Similar to a Ponzi scheme, it appears that UDF V investor capital is being used to return capital to UDF III and UDF IV investors.
- UDF V loans are being issued to UDF III and UDF IV's largest borrower, Centurion, and the relationship between Centurion and UDF V's affiliates is not disclosed. UDF V's Filings include express statements that it will not make loans to, or participate in loans with, affiliates. However, it appears that UDF V's business activity contradicts these statements or, at the very least, contradicts the spirit of the disclosures as UDF V is indirectly, but effectively, refinancing past UDF III and UDF IV loans while not directly acquiring the loans from UDF III and UDF IV.
- Insiders have made loans to themselves through affiliates of UMT at interest rates below the 10-Yr US treasury rate in the form of unsecured deficiency notes and recourse obligations totaling \$73 million as of the quarter ended September 30, 2015. Insiders lend to themselves at an interest rate of 1.75% to the detriment of shareholders while the same form of unsecured deficiency notes issued to non-affiliated parties bear interest at 14%.
- UDF III had \$392 million of assets and \$10 million of debt as of the quarter ended September 30, 2015. Despite having a nominal amount of debt relative to its assets (which are principally interest bearing loans), UDF III consistently discloses that it has not made payments on its debt in a timely manner, including in the most recent quarter. This leads to obvious questions about the financial condition of UDF III.
- On November 30, 2015, UDF V released a Form 8-K disclosing that William Kahane, a director of UDF V's Board of Directors, had resigned. Kahane's resignation was effective as of November 24, 2015, which was the same day that UDF V and the other Companies each released a Forms 8-K disclosing that Whitley Penn would no longer be the Companies' auditor. It appears that Kahane is affiliated with AR Capital, RCS Capital and Nick Schorsch. AR Capital is or was a co-sponsor and external advisor of UDF V. RCS Capital raised capital as the dealer manager for UDF IV and is raising or was raising capital as the dealer manager of UDF V. Like Whitley Penn, UDF V's Form 8-K disclosing Kahane's resignation claimed that the resignation was "not a result of any disagreement with the Board or the Trust on any matter relating to the Trust's operations, policies or practices." The timing of Whitley Penn's resignation and Kahane's does not appear to be coincidental and further raises questions about the veracity of Whitley Penn's representations to shareholders and the market.

In summary, these red flags raise significant questions about (i) the legitimacy of the UDF structure, (ii) the financial condition of the Companies, (iii) Whitley Penn's prior audit work and (iv) the accuracy of the Companies' claims and Whitley Penn's acknowledgement regarding there not being any disagreements between Whitley Penn and the Companies and there not being any reportable events. Further questions are also raised about whether these or other red flags may have been willfully or otherwise ignored, whether deficient audits may have been conducted, and whether professional audit standards may have been violated. In the absence of any disagreements between the Companies and Whitley Penn or any reportable events, especially in light of the observations detailed above, it begs the question as to why Whitley Penn is not continuing as the auditor of the Companies.