

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA)
PLAINTIFF,)

vs.)

Case No.)

THEODORE MICHAEL ZACHRITZ)
DEFENDANT,)

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W/M, 10/22/45)

SSN xxx-xx-4057)

1611 Drakestone Ave)

Nichols Hills, OK 73120)

TODD ANTHONY ZACHRITZ)

DEFENDANT,)

W/M, 04/23/68)

SSN xxx-xx-6195)

1210 N Tela Drive)

Oklahoma City, OK 73127)

AFFIDAVIT OF PROBABLE CAUSE

I, Daniel Prykryl, do attest that the following is true and factual to the best of my knowledge in regards to the following information. I am currently employed as an Investigator for the State of Oklahoma, Office of Attorney General assigned to the Public Protection Unit.

On July 24, 2012, I was assigned to investigate complaints against **Theodore Michael Zachritz aka Mike Zachritz and Todd Anthony Zachritz aka Todd Zachritz dba Lifestyle Pools, LLC** for fraudulent business practices. The Office of Attorney General, Public Protection Unit had received numerous complaints from individuals who alleged that **Mike Zachritz, Todd Zachritz** and their business, **Lifestyle Pools, LLC** had defrauded them of money. The complaints involved customers who had contracted with and made payments to **Mike Zachritz or Todd Zachritz or the business** for swimming pool construction but the construction was never completed. In the course of this investigation, your Affiant has interviewed numerous complainants and reviewed various documents pertaining to the allegations against **Mike Zachritz and Todd Zachritz**. The following information was obtained from the review of those documents and the interviews of complainants during the investigation.

On or about January 7, 2012, Greg and Sherry Davis, Edmond (Oklahoma County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC**, to construct an in-ground swimming pool and spa with a waterfall and fire pit at their residence located at 1416 NW 192nd Terrace,

Edmond, OK. The contract price for the pool and other features was \$55,300.00 and the Davises made a \$1000.00 down payment at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed by May 1, 2012. Three more payments of \$16,290.00 each were due during different stages of construction with a final payment of \$5430.00 due prior to plaster. **Lifestyle Pools** started work approximately February 10, 2012 but only worked sparingly on the pool during this time. **Todd Zachritz** was characterized as the foreman on the job by Davis. Davis or his wife, Sherry, made the payments as required in the contract even though certain items required to be completed at the time of payment were not yet finished. After the three payments had been made to **Lifestyle Pools**, **Mike and Todd Zachritz** showed up at the residence wanting additional money to complete the pool. The Davises requested **Mike Zachritz** provide the pool equipment and the Davises were told he didn't have the funds for the equipment. The Davises refused to give them any additional funds. At the time **Lifestyle Pools** stopped work on the pool, the pool had not been plastered, there was no pool equipment installed, the fire pit had not been completed, no electrical had been run and the concrete deck had not been stained. The Davises paid **Lifestyle Pools** \$49,870.00 but the pool was never completed as agreed in the contract. The Davises had to spend additional funds over the original contract price to hire another contractor to complete the pool.

On or about February 1, 2012, Beth and Paul Ludwig, Edmond (Oklahoma County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa at their residence located at 22455 Graces Terrace, Edmond, OK. The contract price for the pool and spa was \$49,000.00 and the Ludwigs made a \$4900.00 down payment at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in six to eight weeks. Three more payments of \$13,230.00 each were due during different stages of construction with a final payment of \$4410.00 due prior to plaster. Lifestyle started the dig for the pool within a couple days of contract signing and then it set with no work being done for about two months. The Ludwigs made the payments as required in the contract. The Ludwigs mostly dealt with **Mike Zachritz** during construction but also spoke with **Todd Zachritz**. The pool was partially completed but not finished as of July 2012. **Todd Zachritz** contacted them three times and told them he needed more money to complete the pool and actually set up three appointments with them which he failed to keep. The last time the Ludwigs heard from **Todd Zachritz** was July 12, 2012 when he told them he would be presenting a plan to them on July 16, 2012 to complete their pool but they never heard from him. At the time **Lifestyle Pools** stopped work on the pool, the pool had not been plastered, there was no pool equipment, the gas line had not been done, the retaining wall had not been finished and the electrical had not been done. The Ludwigs paid **Lifestyle Pools** \$44,590.00 but the pool was never completed as agreed in the contract. The Ludwigs had to spend additional funds over the original contract price to hire another contractor to complete the pool.

On or about March 22, 2012, Jeff and Tina Wharton, Oklahoma City (Cleveland County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa and fire pit at their residence located at 5028 Turtle Lake Court, Oklahoma City, OK. The contract price for the pool and spa was \$47,100.00. The contract required a down payment of

\$4700.00 and three more payments of \$12,720.00 each during different stages of construction with a final payment of \$4740.00 due prior to plaster. The Whartons made the down payment and two payments of \$12,720.00 each which were required in the contract. The pool was to be completed in eight to ten weeks. The Whartons dealt with both **Mike Zachritz and Todd Zachritz** during construction. **Lifestyle Pools** quit working on the pool in mid-June 2012. **Mike and Todd Zachritz** came out to the Wharton residence at the end of June or first of July 2012 and wanted more money to finish the pool. Due to the length of time that had transpired since the signing of the contract, the Whartons refused to give them anymore money although they did agree to pay them when the pool was completed. There was no more work done after this meeting. At the time **Lifestyle Pools** stopped work on the pool, the pool had not been plastered, the concrete deck had not been done, the other half of the coping had not been completed, the long plumbing or electrical had not been done and pool equipment had not been delivered and installed. The Whartons also had a lien filed against their property by Van Eaton Ready Mix because **Lifestyle Pools** had failed to pay them. The Whartons had to pay the \$2800.00 lien. The Whartons paid **Lifestyle Pools** \$30,140.00 but the pool was never completed as agreed in the contract. The Whartons hired their own subcontractors to finish the pool and incurred additional expenses in excess of the original contract price.

On or about March 21, 2012, Charles and Marla Valentine, Norman (Cleveland County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool at their residence located at 1907 Quail Creek Drive, Norman, OK. The contract price for the pool was \$41,100.00 and the Valentines made a \$4100.00 down payment at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in eight to ten weeks. Three more payments of \$11,100.00 each were due during different stages of construction with a final payment of \$3700.00 due prior to plaster. **Lifestyle Pools** started work on the pool and the Valentines made the payments as required in the contract. The third \$11,100.00 payment was supposed to be used for tile, coping, decking and pool equipment. By July 2012 the pool still had not been completed and the Valentines spoke with **Mike Zachritz**, who only gave them excuses. The Valentines spoke with **Todd Zachritz** about completing the pool after **Mike Zachritz** was shut down by the Oklahoma Tax Commission. **Todd Zachritz** told the Valentines that he would send out his crew to do the deck but he never called back to finalize the work. At the time **Lifestyle Pools** stopped work on the pool, the pool had not been plastered, the concrete deck had not been done, the electrical had not been done and there was no pool equipment. The Valentines had paid **Lifestyle Pools** \$37,400.00 but the pool was never completed as agreed in the contract. The Valentines had to spend additional funds over the original contract price to hire another contractor to complete the pool.

On or about April 5, 2012, Cynthia Cleary, Oklahoma City (Oklahoma County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa at her residence located at 12512 Arrowhead Terrace, Oklahoma City, OK. The contract price for the pool and spa was \$50,000.00 and Cleary made a \$5000.00 down payment which was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed by Memorial Day 2012. Three more payments of \$13,500.00 each were due during different stages of construction

with a final payment of \$4500.00 due prior to plaster. **Lifestyle Pools** began construction on the Monday after the contract signing. Cleary made the payments as required in the contract but one payment was short \$100.00 (\$13,400.00 payment) due to her error. The hole was dug and the gunite was finished along with the tile and coping by the end of May or the first of June 2012 at which time Cleary issued the third check after which **Lifestyle Pools** never returned to work on the pool. Cleary made numerous calls to **Lifestyle Pools** and received messages from both **Mike and Todd Zachritz**. **Mike and Todd Zachritz** both told her they would finish the pool. However, she received another call from **Todd Zachritz** and was told that **Lifestyle Pools** was filing bankruptcy and her pool would not be completed. Cleary requested **Todd Zachritz** return \$20,000.00 of the money she had paid but she was told he had no money to give her. At the time **Lifestyle Pools** stopped work on the pool, the pool had not been plastered, the concrete deck had not been completed, there was no pool equipment and the free fire pit had not been built even though Cleary had purchased the materials herself. Cleary also had a lien in the amount \$4352.05 placed on the her property in August 2012 by Van Eaton Read Mix due to **Lifestyle Pools** failure to pay for the gunite used on the pool. Cleary paid **Lifestyle Pools** \$45,400.00 but the pool was never completed as agreed in the contract. Cleary had to spend additional funds over the original contract price to hire another contractor to complete the pool.

On or about December 11, 2011, Robert and Paula Rother, Norman (McClain County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa at their residence located at 30754 Drake Court, Norman, OK. The contract price for the pool and spa was \$50,000.00 and the Rothers made a \$5000.00 down payment which was given to Don Daye, the representative for Lifestyle Pools. Three more payments of \$13,500.00 each were due during different stages of construction with a final payment of \$4500.0 due prior to plaster. Construction began on the pool and was near completion by June 2012. The Rothers made the payments as required in the contract and even made the final payment of \$5250.00 which was in excess of the original \$4500.00 due to extra concrete. However, the pool was never completed even though it was entirely paid for by the Rothers. At the time **Lifestyle Pools** stopped work on the pool, the equipment/treatment system had not been installed, the control system had not been installed and the lights and wiring were not completed as called for in the contract. The Rothers spoke with **Todd Zachritz** about completing the pool but he wanted more money because he didn't have the money to buy the needed equipment but the Rothers provided no other money. The Rothers also had a lien in the amount of \$1035.72 placed on their property in July 2012 by Van Eaton Ready Mix due to **Lifestyle Pools** failure to pay for concrete used in construction of the pool. The Rothers paid **Lifestyle Pools** \$50,750.00 which was the entire amount due for pool construction but the pool was never completed as agreed in the contract. The Rothers had to spend additional funds over the original contract price to have the pool completed.

On or about January 24, 2012, **Ronald Jordan, Oklahoma City (Oklahoma County)**, Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa at his residence located at 1626 NW 38th St., Oklahoma City, OK. The contract price for the pool and spa was \$41,600.00. The contract called for three payments of \$12,480.00 each being due during different stages of construction with a final payment of \$4160.00 due prior to

plaster. The pool was to be completed in six to eight weeks. **Lifestyle Pools** started construction in February 2012 but by May 2012 the pool still had not been completed. Jordan worked with both **Mike Zachritz and Todd Zachritz** during construction and also paid 90% of the cost during this construction period. The last check for \$4160.00 was given to **Todd Zachritz** when **Lifestyle Pools** was coming to plaster the pool. Jordan was uncomfortable providing another check but was told by **Todd Zachritz** that they needed the last check for the equipment, lights and to connect up the gas. The pool was still not completed after this final payment. At the time **Lifestyle Pools** stopped work on the pool, Jordan was missing the following equipment: an Ozonator, 3 lights, hot tub bubbler, heater, pool cleaner and the control panel. Jordan paid **Lifestyle Pools** \$41,600.00 which was the entire amount due for the pool construction but the pool was never completed as agreed in the contract. Jordan had to spend additional funds over the original contract price to have the pool completed.

On or about April 4, 2012, Jeff and Katherine Hughes, Oklahoma City (Oklahoma County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool and spa at their residence located at 5008 Kennington Lane, Oklahoma City, OK. The contract price for the pool and spa was \$50,000.00 and the Hughes made a \$5000.00 down payment at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in six to eight weeks. Three more payments of \$13,500.00 each were due during different stages of construction with a final payment of \$4500.00 due prior to plaster. **Lifestyle Pools** didn't start construction for over two weeks after the contract was signed but assured the Hugheses that the pool would be completed on time. The Hugheses made the payments as required in the contract. After fourteen weeks, the pool was still not completed and **Lifestyle Pools** had only worked on the pool approximately eighteen days. **Mike Zachritz** came out to the Hughes' residence in late July 2012 and told them he wanted to finish the pool. The Hugheses were told his crew would be out but they would have to pay them directly and pay for the concrete but no one ever showed up to work. At the time **Lifestyle Pools** stopped work on the pool, the pool was not plastered, the concrete deck was not done, the fire pit had not been completed and there was no pool equipment or accessories. The Hugheses paid **Lifestyle Pools** \$45,500.00 but the pool was never completed as agreed in the contract. The Hugheses had to spend additional funds over the original price of the contract to hire sub-contractors to complete the pool.

On or about April 7, 2012, David and Renee Kirby, Oklahoma City (Cleveland County), Oklahoma, entered into a contract with **Lifestyle Pools, LLC** to build an in-ground swimming pool at their residence located at 13301 Raymond King Drive, Oklahoma City, OK. The contract price for the pool was \$38,000.00 and the Kirbys made a \$3800.00 down payment at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in eight weeks. Three more payments of \$10,260.00 each were due during different stages of construction with a final payment of \$3420.00 due prior to plaster. The construction of the pool started late April 2012 and the hole was dug then no work was done for approximately seventeen days. Kirby contacted **Lifestyle Pools** to inquire about the work and plumbing materials were dropped at the site and some were used for the pool. Kirby called two weeks later and talked to **Todd Zachritz**, who said he was the new owner of **Lifestyle Pools**.

Kirby was told by **Todd Zachritz** that he thought the pool was completed. **Todd Zachritz** agreed to take immediate action and the gunite and coping were completed. The Kirbys made the payments as required in the contract as work progressed on the pool. The plumbing, dirt work and decking were supposed to be done the next week. The work was never completed and the last work done on the pool was July 6, 2012. At the time **Lifestyle Pools** stopped work on the pool, the pool was not plastered, the concrete deck had not been poured and there was no pool equipment. The Kirbys paid **Lifestyle Pools** \$34,580.00 but the pool was never completed as agreed in the contract. The Kirbys had to spend additional funds over the original price of the contract to hire another contractor to complete the pool.

On or about May 24, 2012, Linda Northup, Guthrie (Logan County), Oklahoma entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground pool and spa at her residence located at 1720 Canyon Bluff Road, Guthrie, OK. The contract price for the pool and spa was \$40,000.00 and Northup made a down payment of \$4000.00 which was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in six weeks. Three more payments of \$10,800.00 each were due during different stages of construction with a final payment of \$3600.00 due prior to plaster. The construction started and gunite, tile and coping were completed. Northup made the payments as required in the contract. However, she stopped payment on the third \$10,800.00 check based on a news story she saw about **Lifestyle Pools** and was afraid they might not finish the pool. Northup was contacted by Daye who advised her **Todd Zachritz** was going to sue her and place a lien on her property if she failed to make the payment. Northup was intimidated and was also leaving on vacation so she reissued the check at the end of June 2012. Northup was promised by **Todd Zachritz** that her pool would be finished when she returned from vacation in mid-July 2012. Northup returned home and found that no work had been done on her pool. At the time Lifestyle Pools stopped work on the pool, the pool was not plastered, the plumbing had not been completed, the electrical work was not completed and there was no pool equipment. Northup also found out that **Lifestyle Pools** had failed to pay Ross Arthurs for gunite work on the pool and he wanted Northup to pay him \$2990.00. Northup paid **Lifestyle Pools** \$36,400.00 but the pool was never completed as agreed in the contract. Northup had to spend additional funds over the original price of the contract to hire another contractor to complete the pool.

On or about 04/15/12, Paul and Barbara Riess, Edmond (Oklahoma County), Oklahoma entered into a contract with **Lifestyle Pools, LLC** to construct an in-ground swimming pool at their residence located at 20477 Deer Hollow Drive, Edmond, OK. The contract price for the pool was \$36,500.00 and the Riesses made a down payment of \$3650.00 at the signing of the contract. The down payment was given to Don Daye, the representative for Lifestyle Pools. The pool was to be completed in eight weeks. Three more payments of \$9855.00 each were due during different stages of construction with a final payment of \$3285.00 due prior to plaster. The Riesses made the three \$9855.00 payments as required in the contract during construction. The construction was started on the pool and the pool was nearing completion in early July 2012 when **Mike and Todd Zachritz** asked for \$1500.00 to complete the pool. The Riesses were told they didn't have the money to finish the pool but if they were given the \$1500.00 they could buy the equipment and complete the pool. The Riesses wrote the check but eventually stopped payment on it after second thoughts. The

Riesses decided to pay the supplier directly for anything bought for the pool and actually paid \$3202.00 to Superior Pool Products on July 20, 2102 for parts and equipment for their pool which were installed by Lifestyle Pools. The Riesses also paid another \$2875.00 to **Todd Zachritz** to complete the plaster work on the pool which was finished. The Riesses also found out that a Pre-Lien Notice of Lien had been filed against them by Van Eaton Ready Mix for \$3636.38 due to Lifestyle Pools failure to pay for concrete used in construction of their pool. The Riesses paid Lifestyle Pools \$36,090.00 plus the \$3202.00 to Superior Pool Products but the pool was still not completed as agreed in the contract. The Riesses did not receive their pool cleaner or the ozone generator and finally purchased the cleaner themselves at a cost of \$336.90 with the ozone generator yet to be purchased at a cost of approximately \$500.00. The Riesses had to spend additional funds over the original price of the contract in an attempt to complete the pool.

Mike and Todd Zachritz's continuing pattern and practice of requiring customers to pay 90% of the contract price before 90% of the work was completed allowed them to convert money to their own use which should have been used for customer pool construction. As a result, most customers had to expend thousands of dollars over their original contract price to complete a pool which should have been completed by **Lifestyle Pools, LLC**.

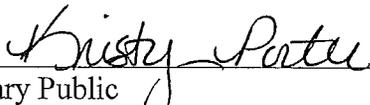
Based on my investigation, the information I received, and the pattern of conduct displayed by the Defendants **Theodore Michael Zachritz** and **Todd Anthony Zachritz**, your Affiant believes probable cause exists to show that the Defendants committed (11) felony violations of Embezzlement, Title 21 O.S. § 1451 and (1) felony violation of Pattern of Criminal Offenses, Title 21 O.S. § 425. The undersigned asks that this court issue a finding of fact that there is probable cause to believe that the above named Defendants committed these crimes and issue a warrant for the arrests of **Theodore Michael Zachritz** and **Todd Anthony Zachritz**.

Further affiant sayeth not.



Daniel Prykryl

SUBSCRIBED AND SWORN to before me this 26 day of June 2013.



Notary Public

Commission Expires: 12-20-14 Commission Number: 10010494

