



## Appendix XII-B1

 <b>CIVIL CASE INFORMATION STATEMENT (CIS)</b> Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 <b>Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</b>		FOR USE BY CLERK'S OFFICE ONLY	
		PAYMENT TYPE: <input type="checkbox"/> CK <input checked="" type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. <u>K11145</u> AMOUNT: <u>\$250</u> OVERPAYMENT: <u>—</u> BATCH NUMBER: <u>009</u>	
ATTORNEY / PRO SE NAME David E. Sellinger		TELEPHONE NUMBER (973) 360-7925	COUNTY OF VENUE Morris
FIRM NAME (if applicable) Greenberg Traurig, LLP		DOCKET NUMBER (when available) <u>MKS L-1293-1u</u>	
OFFICE ADDRESS 500 Campus Drive Suite 400 Florham Park, NJ 07932		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) The Louis Berger Group, Inc. and Berger Group Holdings, Inc., Plaintiffs		CAPTION The Louis Berger Group, Inc. and Berger Group Holdings, Inc., Plaintiffs v. Richard J. Hirsch	
CASE TYPE NUMBER (See reverse side for listing) 699	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE: <u>David E. Sellinger</u>			

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 SUPERIOR COURT  
 2016 JUN 10 P 2:00  
 CIVIL DIVISION



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Multicounty Litigation (Track IV)

- |  |   |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN              | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION                |
| 274 RISPERDAL/SEROQUEL/ZYPREXA         | 291 PELVIC MESH/GYNECARE                                  |
| 278 ZOMETA/AREDIA                      | 292 PELVIC MESH/BARD                                      |
| 279 GADOLINIUM                         | 293 DEPUY ASR HIP IMPLANT LITIGATION                      |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX                   |
| 282 FOSAMAX                            | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS       | 297 MIRENA CONTRACEPTIVE DEVICE                           |
| 286 LEVAQUIN                           | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR              |
| 287 YAZ/YASMIN/OCELLA                  | 300 TALC-BASED BODY POWDERS                               |
| 288 PRUDENTIAL TORT LITIGATION         | 601 ASBESTOS  |
| 289 REGLAN                             | 623 PROPECIA  |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Putative Class Action

☐ Title 59

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2016 JUN 10 P 2:08

MORRIS COUNTY  
CIVIL DIVISION

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*The Louis Berger Group, Inc. and*

*Berger Group Holdings, Inc.*

THE LOUIS BERGER GROUP, INC. and  
BERGER GROUP HOLDINGS, INC.,

Plaintiffs,

v.

RICHARD J. HIRSCH,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MORRIS COUNTY  
Docket No. MLR L-1293-L6

CIVIL ACTION

**COMPLAINT**

Plaintiffs The Louis Berger Group, Inc. ("LBG") and Berger Group Holdings, Inc. ("BGH") (collectively "Berger" and/or the "Company"), by and through their attorneys, Greenberg Traurig, LLP, as and for their Complaint against Defendant Richard Hirsch ("Hirsch"), state:

**INTRODUCTION**

1. This is an action brought by Berger against an admittedly corrupt former senior officer to recover the damages caused by his illegal conduct. Defendant is awaiting sentencing after pleading guilty to criminal violations of the Foreign Corrupt Practices Act (the "FCPA"), 15 U.S.C. §§ 78dd-1, *et. seq.*, predicated on conduct which is materially the same as the conduct alleged herein. LBG is an internationally recognized consulting firm that provides engineering,

architectural and construction management, environmental planning and science, and economic development services.

2. Defendant was LBG's senior in-country official in Indonesia and, for a portion of the relevant period, Vietnam. During the course of his employment with LBG, and while he was a shareholder of BGH and the senior LBG employee responsible for company operations in Indonesia, Vietnam, and the Philippines, Hirsch, unbeknownst to LBG at the time, knowingly directed, facilitated and approved payments from LBG to foreign government officials in Indonesia and Vietnam in connection with LBG's government contracting activity in those countries, in violation of both the FCPA and of LBG's known company policies and/or procedures, thereby violating his fiduciary duties to Berger.

3. As a result, following a voluntary disclosure by the Company, the U.S. Department of Justice ("DOJ") launched an investigation into potential violations of the FCPA by Louis Berger International, Inc. ("LBI") and its employees. LBI is the successor in interest to LBG for, among other things, its Asian operations. As of December 31, 2014, LBG sold all of its Asian businesses, including its businesses in India, to LBI and its subsidiaries. Hirsch has acknowledged under oath that certain of the payments at issue violated the FCPA. Berger ultimately resolved its FCPA case with DOJ by agreeing to pay a \$17.1 million financial penalty and to assume a Monitor for its compliance program. Berger's case with the World Bank was resolved on January 29, 2015, with BGH and its controlled affiliates (other than LBG) subject to a one-year conditional non-debarment and LBG and its controlled affiliates subject to debarment with conditional release for a term of one year. Berger has now been reinstated to pursue World Bank projects. The Company's damages include, but are not limited to, not only the financial penalty imposed by the DOJ, but also the millions of dollars spent in professional fees to investigate the improper payments relating to Hirsch's conduct and resolve them with DOJ. In

addition, the Company has suffered damage to its reputation and its business with its ongoing and prospective government customers, as well as vendors and suppliers.

4. After learning of Hirsch's misconduct related to questionable payments in Indonesia, Hirsch was separated from the Company. Berger now brings this action to recover damages for Hirsch's admittedly criminal misconduct that took place in connection with his management and oversight of LBG projects in Indonesia and Vietnam. Each of Hirsch's criminal acts was taken in direct violation of company policies and procedures, and of his fiduciary duty to Berger.

### **THE PARTIES**

5. LBG is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business at 412 Mount Kemble Avenue, Morristown, New Jersey 07960. At all relevant times, LBG was responsible for international operations of the Company, including, during all periods relevant to the Complaint, business conducted in Indonesia and Vietnam.

6. BGH is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 412 Mount Kemble Avenue, Morristown, New Jersey 07960.

7. Hirsch is a U.S. citizen and, on information and belief, is currently living in Illinois and, during the period in which his criminal misconduct occurred, lived in Manila, the Philippines.

### **JURISDICTION AND VENUE**

8. This Court may exercise in personam jurisdiction over Defendant because the claims in this lawsuit arise out of Defendant's purposeful, continuous and systematic contacts

with New Jersey, including contacts specifically relating to the transactions at issue in this lawsuit.

9. At all relevant times, Hirsch was an LBG employee and an officer of LBG and used his LBG email account (and US server) to facilitate much of his wrongdoing. Hirsch submitted improper invoices for payment to LBG, which were paid from LBG's New Jersey offices. Additionally, all improper payments were made in connection with LBG contracts. Further, Hirsch recently appeared in the U.S. District Court for the District of Jersey, in Newark, for his guilty plea. Venue is proper in this Court because Berger has places of business within Morris County, New Jersey.

### **FACTUAL BACKGROUND**

#### **A. Hirsch's Employment with LBG**

10. LBG hired Hirsch as an employee on September 5, 1985. During his employment with LBG, Hirsch served as Senior Vice President, Asia, in charge of the Integrated Development & Research Division (BE division) at LBG.

11. In that capacity, he was the senior in-country official for LBG in Indonesia and, for a portion of the relevant period (2000-2007), Vietnam.

12. Hirsch last worked for LBG as a Senior Vice President. He held that position from about 1999 until his termination in 2012.

13. Hirsch's job duties at LBG as Senior Vice President, Asia included, among other things, managing various engineering, infrastructure and construction projects in Vietnam and Indonesia in a manner consistent with the Company's policies and practices.

14. Hirsch traveled to New Jersey for business meetings and had frequent communications with other Company employees, officers and directors in New Jersey. Hirsch's



paychecks were issued by LBG payroll out of New Jersey. He has admitted under oath that his criminal activities occurred in New Jersey and elsewhere.

15. LBG is 100% owned by BGH, a privately-held corporation.

**B. Hirsch's Ownership of Shares of BGH**

16. On June 6, 2006, Hirsch entered into an Agreement to purchase 250 shares of BGH. Hirsch thereby became a shareholder of BGH.

17. As a shareholder, Hirsch became a party to the BGH Original Shareholders Agreement dated June 8, 1978 as amended through October 30, 2011 (the "Shareholders Agreement").

**C. LBG's Code Of Business Conduct**

18. As an employee of LBG, Hirsch received training from LBG management personnel during the 2000 to 2010 period, including training on LBG's Code of Business Conduct, and signed documents acknowledging his responsibilities in this area.

19. At all relevant times, Hirsch was subject to LBG's Code of Business Conduct.

20. Section 3.5 of LBG's Code of Business Conduct governs Ethical Business Activities and provides, in pertinent part:

Conducting all our business activities with honesty and integrity is paramount to everything we do at The Louis Berger Group. All employees must conduct themselves in all business affairs with honesty, integrity and within the bounds of all applicable laws . . . . You should never ask or allow another party, such as an outside agent, representative, or supplier, to perform an action that a Berger employee is not permitted to do.

21. Section 3.7 of LBG's Code of Business Conduct governs Bribes and Kickbacks and provides, in pertinent part:

All bribes or kickbacks of any kind are strictly prohibited. Payments shall not be offered or given to any officer or employee of a customer or supplier or to any governmental official or employee . . . . All procurement laws and this Code specifically

prohibit giving anything of value inconsistent with local laws and regulations to (a) ANY governmental officials or employees, domestic or foreign, who have discretion to make or influence official decisions affecting the Company's business, if the purpose of the payment is to influence those decisions or (b) other government officials, whether or not they have any such discretionary powers, where prohibited under the law of any place, including the United States.

22. Section 3.8 of LBG's Code of Business Conduct governs Gifts and Courtesies and provides, in pertinent part:

When you negotiate with vendors, providers, contractors, government entities, and third-party payers, you must do so with honesty and integrity . . . you should never use gifts or courtesies in an attempt to influence the business decisions of our partners or gain an improper advantage. If there is any reason to believe that your actions could be interpreted as an attempt to improperly influence a business decision or gain an improper advantage, then the activity should not occur. You should always ensure that any gift or entertainment . . . cannot be perceived as a bribe or improper payment . . .

23. Section 7.0 of LBG's Code of Business Conduct governs Procurement Integrity and provides, in pertinent part:

All Louis Berger Group employees are prohibited from . . . compensating a former government employee who served as a procurement official during the preceding one year period.

24. Section 13.0 of LBG's Code of Business Conduct governs the Avoidance of Corrupt Practices and subsection 13.1 thereof provides:

**13.1. Payments.** The U.S. Foreign Corrupt Practices Act (FCPA) and the laws of most other countries and the European Union prohibits making or offering payments of any kinds, including the giving or offering of anything of value to foreign government officials . . . to influence business in any way. The FCPA also applies to the activities of Joint Ventures and consortiums between Berger and foreign governments or their agencies. Here, as in all other areas, true and complete entries in Berger records are vital. You must provide adequate documentation for all Berger payments with which you are concerned, and should neither make nor accept payments intended to be used in any part for reasons other than those described in supporting documents.



**D. Hirsch Directs And Approves Improper Payments by LBG to Entities and Individuals in Vietnam and Indonesia**

25. From August 1999 to March 2004, Hirsch authorized and approved 27 payments totaling \$692,670 to a Vietnamese entity known as "COFTIBD" or "the Foundation" with the knowledge that these payments were improper, in violation of LBG's policies and procedures, without notice to or authorization of LBG management, and in potential violation of the FCPA.

26. The Foundation was an entity through which improper payments were made to government officials in Vietnam.

27. Most, if not all, of the foregoing payments to the Foundation were, on information and belief, bribes to Vietnamese government officials in connection with LBG's obtaining or retaining government contracts in Vietnam.

28. The invoices approved by Hirsch had little to no description on the payment, and there is no evidence that any of these payments were billed to a project as part of legitimate subcontractor work. The invoices paid were created and approved by Hirsch and circumvented in-country professionals as would have been the normal process. The invoices were intended by Hirsch to conceal the true nature of the payments from LBG, and contained false descriptions, such as "commitment fees" and/or "counterpart per diems."

29. Unlike most other invoices paid in-country, the invoices created and approved by Hirsch were sent directly by Hirsch to Accounts Payable at the Company's New Jersey offices.

30. In addition, from 2002 to 2005, in connection with LBG's projects in Indonesia, Hirsch instructed the LBG accounts payable department in New Jersey to wire funds totaling \$375,250 to certain Indonesian entities that were shell companies used as conduits for improper payments to foreign government officials in connection with LBG's securing or retaining government contracts in Indonesia. Hirsch did so with the knowledge that these payments were

improper, in violation of LBG's policies and procedures, without notice to or authorization of LBG management, and in potential violation of the FCPA.

31. The payments were sent to bank accounts in the names of either Parwini Larasati (aka Wini Kumikaw), who was LBG's local representative in Indonesia, or Jonathan Wong, who was an Indonesian in-country accounting lead for LBG who also managed the company's relationship with Larasati, and are summarized as follows:

- a. 8 payments, totaling \$174,750 to PT Dynamic Management
- b. 5 payments totaling \$105,000 to PT Reka Business Consultant;
- c. 2 payments totaling \$46,800 to PT Selaras Nusantara;
- d. 2 payments, totaling \$38,650 to PT Jasa Nusantara; and
- e. 1 payment in the amount of \$10,050 to PC Prima Sentosa Abadi.

32. The foregoing payments were for "commitment fees", which was a euphemism for bribes.

**E. Hirsch Was Separated From The Company**

33. Beginning in or about 2011, the Company, through outside counsel, began a formal substantive and specific investigation into, among other things, Hirsch's breaches of fiduciary duties.

34. Hirsch refused to cooperate with the Company's internal investigation after initial findings surfaced in 2011 regarding certain questionable payments in Vietnam and Indonesia.

35. The Company did not know or have reason to know of the facts that formed the basis for its potential claims against Hirsch which are set forth in this Complaint until after April 10, 2011.

36. As a result of the information developed regarding Hirsch's breaches, Hirsch was separated from the Company.

**F. Hirsch Pleads Guilty to FCPA Violations**

37. On July 17, 2015, Hirsch entered a guilty plea to one count of conspiracy to violate the FCPA and one count of a substantive violation of the FCPA, as alleged in the Criminal Information, Plea Agreement and Statement of Facts filed with the Court. In the plea hearing held in the U.S. District Court, Newark, New Jersey, Hirsch admitted under oath that he committed the following acts, each of which was concealed from the Company, taken in violation of the Company's policies as described above, and which establishes his breach of his fiduciary duties to the Company:

- a. From about 2000 through about April, 2010, Hirsch and others at the Company had an agreement and a mutual understanding that the Company would from time to time make improper payments of money to foreign officials;
- b. Hirsch at all relevant times knew, or consciously avoided knowing, that these payments were intended to influence the acts and decisions of these foreign officials in their official capacities;
- c. Hirsch at all relevant times knew, or consciously avoided knowing, that these payments were made in order to assist the company in obtaining or retaining business;
- d. During the relevant period, Hirsch used terms like "commitment fee," "counterpart per diem" and "marketing fee" as code words to conceal the true nature of the bribe payments;
- e. During the relevant period, Hirsch utilized cash disbursement forms and invoices that did not truthfully describe the services provided or the purpose of the payment in order to conceal the true nature of the bribe payments;
- f. On February 9, 2009, Hirsch, intending to prevent the creation of written evidence of bribery, sent an e-mail from his personal e-mail account to an employee of the Company telling him not to send any more e-mails about "evaluation committees and commitment expectations";
- g. During the relevant period, Hirsch approved payments to an Indonesian firm for the purpose of making payments to an Indonesian government official to secure an important development contract with the Indonesian government for the Company;
- h. Hirsch took all of the above actions knowingly and willfully, understanding that the actions were unlawful.

**G. The Reimbursement Undertaking**

38. As an officer of the Company, Hirsch requested that the Company advance to him his "reasonable expenses (including fees and expenses of counsel) incurred or to be incurred" in defending against the government's investigation into his criminal activities and potential violations of the FCPA.

39. At the time of Hirsch's request, the Company was not yet aware of Hirsch's criminal conduct.

40. As a result of Hirsch's request, the Company's Board of Directors determined that it was appropriate to advance the requested expenses to Hirsch, provided that Hirsch execute a Reimbursement Undertaking.

41. On September 1, 2010, Hirsch signed a Reimbursement Undertaking with the Company.

42. The Reimbursement Undertaking expressly provides:

In the event that it ultimately shall be determined in accordance with the applicable Governing Provisions that [Hirsch] is not entitled to be indemnified for the Expenses by LBG or BGH, as the case may be, as authorized by the applicable Governing Provisions, [Hirsch] shall repay to the Companies the full amount of the Expenses previously advanced to him or her on his or her behalf within five days of demand therefore by LBG or BGH, as the case may be.

43. In the Reimbursement Undertaking, Hirsch authorized the Company to deduct from and set off against any amounts owed to Hirsch upon the Company's redemption of his shares of common stock of BGH any amounts required to be repaid by Hirsch to the Company in accordance with the Reimbursement Undertaking.

44. Pursuant to the Reimbursement Undertaking, LBG advanced \$49,350.91 for Hirsch's legal fees and expenses in defending against the Government investigation.

45. On or about October 14, 2015, the Board of Directors determined in accordance with the applicable Governing Provisions that Hirsch was not entitled to be indemnified by the Company in light of his guilty plea, and directed Berger's undersigned legal counsel to take action to enforce Berger's right to obtain reimbursement from Hirsch of the fees and expenses which LBG had advanced to him pursuant to the Reimbursement Undertaking.

**COUNT ONE**  
**Breach of Fiduciary Duty – Duty of Good Faith)**  
**(Improper Payments in Vietnam and Indonesia)**

46. Berger hereby incorporates by reference and realleges each and every allegation set forth in Paragraphs 1-46 of the Complaint as if set forth completely herein.

47. Hirsch, while employed by and as an executive of LBG, had a relationship of trust and confidence with LBG through which LBG relayed confidential information to Hirsch and relied upon him as a fiduciary to exercise good judgment, discretion and expertise on LBG's behalf.

48. Based upon the confidences reposed in Hirsch by LBG and the confidential information shared with him based on his position, Hirsch was bound to act in good faith and with due regard to the interests of LBG.

49. By engaging in the corrupt and illegal activities involving improper payments to foreign government officials in Vietnam and Indonesia, as set forth above, Hirsch exposed Berger to a \$17.1 million financial penalty imposed as a result of the DOJ FCPA settlement with Berger, a one-year conditional non-debarment for BGH and its controlled affiliates (other than LBG) and a one-year debarment with conditional release for LBG and its controlled affiliates from the World Bank, substantial reputational and business damages, including but not limited to significant legal and other professional fees, and potential adverse collateral consequences as a

government contractor, both internationally and domestically. By engaging in such activities, Hirsch breached his duty of good faith owed to Berger.

50. As a result, LBG has suffered millions of dollars in damages.

**COUNT TWO**  
**(Breach of Fiduciary Duty – Duty of Loyalty)**  
**(Improper Payments in Vietnam and Indonesia)**

51. Berger hereby incorporates by reference and realleges each and every allegation set forth in Paragraphs 1- 51 of the Complaint as if set forth completely herein.

52. As an employee and executive of LBG, Hirsch had a duty of loyalty to LBG that prohibited him from acting in any manner inconsistent with the agency of trust and was at all times bound to exercise the utmost loyalty in the performance of his duties in all manners for which he was employed.

53. Hirsch's duty of loyalty included not engaging in activities that would harm or result in any detriment to LBG. By engaging in the corrupt and illegal activities involving improper payments to foreign government officials in Vietnam and Indonesia, as set forth above, Hirsch exposed Berger to a \$17.1 million financial penalty imposed as a result of the DOJ FCPA settlement with Berger, a one-year conditional non-debarment for BGH and its controlled affiliates (other than LBG) and a one-year debarment with conditional release for LBG and its controlled affiliates from the World Bank, substantial reputational and business damages, including but not limited to significant legal and other professional fees, and potential adverse collateral consequences as a government contractor, both internationally and domestically.

54. By engaging in such activities, Hirsch breached his duty of loyalty owed to Berger.

55. As a result, LBG has suffered millions of dollars in damages.



**COUNT THREE**  
**(Reimbursement)**

56. Berger hereby incorporates by reference and realleges each and every allegation set forth in Paragraphs 1-56 of the Complaint as if set forth completely herein.

57. In the Reimbursement Undertaking, Hirsch acknowledged that he had requested Berger to advance reasonable fees and expenses for his defense in connection with the investigation by the United States Government, and agreed that in the event it was ultimately determined that he was not entitled to be indemnified for his defense costs by LBG or BGH, he would repay to Berger the full amount previously advanced on his behalf.

58. Hirsch's guilty plea and his admissions under oath in connection therewith demonstrate that Hirsch committed the crimes to which he pled guilty; that he was not successful on the merits or otherwise in defense of the Government's criminal investigation and prosecution of him; and that he had reasonable cause to believe that his conduct was unlawful.

59. The scheme to which Hirsch pled guilty seriously damaged Berger's reputation and its business with its ongoing and prospective government customers and has cost Berger more than \$17 million in a financial penalty, in addition to significant legal and other professional fees.

60. Hirsch's guilty plea had not occurred when Berger's Board of Directors made its initial determination to advance Hirsch's fees and expenses for his defense in connection with the Government's investigation and prosecution of him, nor were the facts underlying Hirsch's guilty plea before Berger's Board of Directors when it made its initial decision to advance Hirsch's fees and expenses.

61. To date, Hirsch has not repaid the amount previously advanced to him.

62. As a result of Hirsch's guilty plea and his admissions under oath in connection therewith and in light of Berger's Board of Directors' determination that Hirsch therefore is not entitled to indemnification, Berger is entitled to reimbursement in the amount of \$49,350.91.

**PRAYER FOR RELIEF**

**WHEREFORE**, Berger respectfully request that this Court enter judgment against Defendant as follows:

- a. Awarding compensatory damages;
- b. Awarding punitive damages;
- c. Awarding reimbursement for the amount previously advanced for his legal fees and expenses;
- d. Awarding costs of suit; and
- e. Granting Berger such other and further relief as the Court deems equitable, just and proper.

DATED: June 9, 2016

**GREENBERG TRAURIG, LLP**

By: 

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The Louis Berger Group, Inc. and  
Berger Group Holdings, Inc..*

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Philip R. Sellinger, Esq. is hereby designated trial counsel in and to the within matter.

RECEIVED & FILED  
SUPERIOR COURT

2016 JUN 10 P 2:08

DATED: June 9, 2016

**GREENBERG TRAURIG, LLP** HUNTS COUNTY  
CIVIL DIVISION

By:



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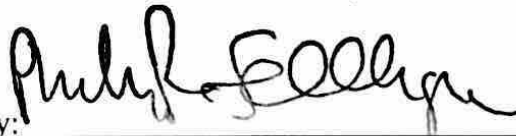
**CERTIFICATION OF NO OTHER ACTIONS**

Pursuant to R. 4:5-1, it is certified that the matter in controversy is not the subject of any other action or arbitration proceeding, and no other action or arbitration proceeding is contemplated.

DATED: June 9, 2016

**GREENBERG TRAURIG, LLP**

By:



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