

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JUN 10 2011

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
)
Plaintiff,)
)
)
v.)
)
The Bank of Union, John Shelley,)
Mike Braun, and Timothy Headington,)
)
Defendants.)

Case No. CJ-2011-2277

MOTION TO SETTLE JOURNAL ENTRY

Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator, moves to settle the journal entry to memorialize the Court's order granting in part and denying in part both Plaintiff's *Application for Order Enforcing Subpoena's* and Defendant's *Motion to Quash and for Protective Order* filed in this matter.

In its *Application for Order Enforcing Subpoena's*, Plaintiff sought the Court's order enforcing, in their entirety, the subpoenas *duces tecum* requesting certain documents from The Bank of Union and Timothy Headington, and the deposition subpoenas issued to John Shelley, Mike Braun, and Timothy Headington, (collectively the "Subpoenas") all of which were issued in an administrative proceeding Plaintiff initiated against Geary Securities, Inc. *fka* Capital West Securities, Inc., Keith D. Geary, Norman Frager, and CEMP, LLC. Defendants' *Motion to Quash and for Protective Order* sought the Court's order quashing the Subpoenas or, alternatively, a protective order limiting their scope.

On May 5, 2011, at 2:00 p.m., this matter came before the Court for hearing. At the conclusion of the hearing the Court granted in part and denied in part both the *Application for Order Enforcing Subpoena's* and the *Motion to Quash and for Protective Order*.

Plaintiff and Defendants agree that the Court found as follows:

1. Plaintiff's application for enforcement of the subpoenas *duces tecum* issued to the Bank of Union and Tim Headington should be and hereby is GRANTED, subject to the terms of the protective order;
2. Plaintiff's application for enforcement of the deposition subpoenas issued to John Shelley and Mike Braun should be and hereby is GRANTED, subject to the terms of the protective order;
3. Plaintiff's application for enforcement of the deposition subpoenas issued to Timothy Headington should be and hereby is DENIED;
4. Defendants' motion to quash the subpoenas in their entirety should be and hereby is DENIED; and
5. Defendants' alternative motion for protective order should be and hereby is GRANTED.

The parties do not, however, agree as to the limitations in scope of the Subpoenas. Having reviewed the transcript of the proceedings held on May 5, 2011, the parties remain in disagreement with respect to the limitations imposed by the Court in granting Defendants' requested protective order.

The parties agree that the Court granted Defendants' requested protective order and limited the production of documents to those subpoenaed documents relating to transactions occurring in 2008 and 2009 and only those documents relating to the purchase by the Bank of Union or Timothy Headington of the Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or A-2, issued by CEMP Resecuritization Trust 2009-1, and the 2008 transactions involving

The Bank of Union's purchases of certain private label mortgage backed securities (collectively the "2008 and 2009 Securities Transactions").

Plaintiff does not agree, nor does the transcript of the proceedings clearly reflect, that the Court limited the production of documents to only those documents relating to the 2008 and 2009 Securities Transactions *and* only those documents created in 2008 and 2009. For example, Plaintiff does not agree, as Defendants have asserted, that the Court excluded from production, documents generated in 2010 and beyond *and* that relate to the 2008 and 2009 Securities Transactions.

Plaintiff therefore moves the Court to settle the journal entry for its order granting in part and denying in part both Plaintiff's *Application for Order Enforcing Subpoena's* and Defendant's *Motion to Quash and for Protective Order*.

Respectfully submitted,



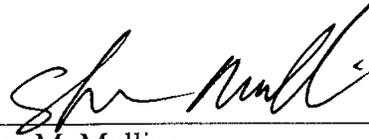
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CERTIFICATE OF MAILING

The undersigned certifies that on the 10th day of June, 2011, a true and correct copy of the foregoing was mailed to:

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