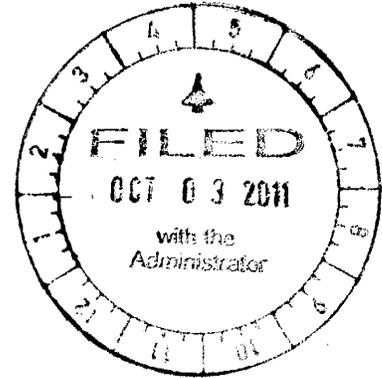


STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
THE FIRST NATIONAL CENTER  
120 NORTH ROBINSON, SUITE 860  
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Geary Securities, Inc. *fka* Capital West Securities, Inc;  
Keith D. Geary; Norman Frager; and CEMP, LLC,

Respondents.

ODS File No. 09-141

**MOTION FOR RECUSAL OF HEARING OFFICER BRUCE R. KOHL**

Pursuant to Rule 660:2-9-2(f)(6) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (the "Rules") and 75 Okla.Stat. § 316, Respondents Geary Securities, Inc. (formerly known as Capital West Securities, Inc.), Keith D. Geary, and CEMP, LLC (the "Geary Respondents") respectfully submit this Motion and request that the Hearing Officer recuse himself and immediately withdraw from the role of Hearing Officer in this action. As set forth below, this Motion is based on and supported by reasonable grounds such that the Motion should be granted. Respondent Norman Frager joins in this Motion for Recusal.

**I. PRELIMINARY STATEMENT.**

The Geary Respondents and Respondent Frager file this Motion to protect and preserve the integrity of the administrative process and their rights to due process and fundamental fairness, as granted and guaranteed by the Rules, Oklahoma statutes, case law and constitutional law. As discussed in greater detail below, even the appearance of impropriety or the potential risk of compromising the integrity of the administrative process is sufficient to cause recusal.

This enforcement action was initiated more than a year ago. The Hearing Officer was appointed on November 9, 2010. The initiation and pendency of this action has and is continuing to impose significant hardship on the Geary Respondents and Respondent Frager on multiple levels. No meaningful progress has been made in the past year in terms of preparing and moving this case to the point of a hearing on the merits. Rather, this case has been plagued by multiple discovery disputes, delay and inactivity. While the Hearing Officer certainly cannot be held solely responsible for the lack of progress, the events, issues, and concerns presented and discussed below satisfy the requirement of reasonable grounds for recusal.

## II. REASONABLE GROUNDS EXIST FOR RECUSAL.

As is discussed in greater detail below, recusal by the Hearing Officer is requested for the following reasons:

### *A. The September 26, 2011 Ex parte Communication.*

On September 29, 2011, counsel for the Geary Respondents received a copy of a letter from the Department's counsel to the Hearing Officer, a copy of which is attached hereto as Exhibit 1. The letter advised the Hearing Officer that counsel for the Department had discovered that an *ex parte* communication had recently occurred involving the Hearing Officer and counsel for certain non-party witnesses (the "BOU Witnesses").<sup>1</sup> The Geary Respondents and Respondent Frager had no prior awareness of the *ex parte* communication. At the request of the Department's counsel, the Hearing Officer scheduled a conference call hearing with counsel for the parties on September 30, 2011.

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<sup>1</sup> The BOU Witnesses include the Bank of Union, two of its officers (John Shelley and Michael Braun), its majority shareholder (Timothy Headington), and six of its Directors. A significant portion of this enforcement action is based on allegations concerning two securities sold by the Geary Respondents to The Bank of Union and Mr. Headington.

In the course of the September 30, 2011 hearing, the Hearing Officer disclosed for the first time that he had engaged in an *ex parte* communication with counsel for the BOU Witnesses on September 26, 2011. The Hearing Officer explained that he received a telephone message at his home on September 26<sup>th</sup> from counsel for the BOU Witnesses, then returned the call and spoke to counsel for the BOU Witnesses during the evening of September 26<sup>th</sup>. The Hearing Officer did not communicate with counsel for the parties on any matter on September 26<sup>th</sup> either before or after receipt of the message or before or after his *ex parte* telephone conversation with counsel for the BOU Witnesses. The Hearing Officer sent an e-mail to counsel for the parties, with a copy to counsel for the BOU Witnesses, the morning of September 27<sup>th</sup>, asking whether any of the parties objected to a motion filed by counsel for the BOU Parties. The Hearing Officer's September 27<sup>th</sup> e-mail did not notify, disclose or otherwise reference the fact he had engaged in an *ex parte* communication the previous evening.

The fact that the Hearing Officer knowingly participated in an *ex parte* communication with counsel for non-party witnesses that he knew full well are critical, material witnesses that are significantly adverse to the Geary Respondents and have been the center of significant discovery disputes in this action is very troubling.<sup>2</sup> The fact of the *ex parte* communication is very troubling regardless of the substance and content of the communication. At an absolute minimum, the fact of the *ex parte* communication creates the appearance and suggestion of impropriety, which compromises the integrity of the administrative process.

The Hearing Officer could have, but did not, refuse to participate in the *ex parte* communication. The Hearing Officer could have, but did not, insist that the communication

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<sup>2</sup> Discovery issues involving the BOU Witnesses have been the subject of previous motions and multiple hearings conducted by the Hearing Officer in this action, as well as by the District Court of Oklahoma County.

take place with the participation of counsel for all parties. The Hearing Officer could have, but did not, inquire of counsel for the parties in advance to determine if there was any objection to the Hearing Officer communicating with counsel for the BOU Witnesses. The Hearing Officer could have, but did not, voluntarily disclose and notify counsel for the parties of the *ex parte* communication after it occurred. Although the Hearing Officer initiated a lengthy communication via email with counsel for the parties the following morning (September 27, 2011), the Hearing Officer did not disclose the fact that he had participated in an *ex parte* communication the previous evening. But for notification by the Department's counsel, the Geary Respondents and Respondent Frager would have never learned that an *ex parte* communication did, in fact, occur.

The Geary Respondents advised the Hearing Officer that they were very concerned by the September 26<sup>th</sup> *ex parte* communication. Rather than voluntarily recuse, the Hearing Officer stated that the Geary Respondents' options were to file a motion for recusal and/or request that the Administrator remove the Hearing Officer.<sup>3</sup> Accordingly, this Motion has been filed. The facts set forth below constitute reasonable grounds for recusal.<sup>4</sup>

***B. Prior Ex Parte Communications Involving the Hearing Officer:***

Prior to September 26, 2011, the Hearing Officer has – whether knowingly or inadvertently – engaged in *ex parte* communications with counsel for the Department (the “Prior *Ex Parte* Communications”). Examples of the Prior *Ex Parte* Communications are attached hereto as Exhibit 2. The Geary Respondents have not previously requested recusal based on

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<sup>3</sup> Notwithstanding the Hearing Officer's statement concerning the option of requesting removal by the Administrator, such option does not appear to be authorized by the Rules which provide for a Motion – like this one – asking the Hearing Officer to recuse.

<sup>4</sup> To the extent necessary under Section 316 of the Oklahoma Administrative Procedures Act, a supporting Affidavit is submitted as Exhibit 4.

such communications because counsel for the Department promptly notified counsel for the Geary Respondents when such communications occurred. However, the occurrence of the September 26, 2011 *Ex Parte* Communication and lack of disclosure indicates a lack of awareness or caution that is cause for concern. Viewing the facts related to the Hearing Officer's *ex parte* communications as a whole, reasonable grounds exist for recusal.

***C. Hearing Officer's Failure to Control Communications with Hearing Officer:***

On more than one occasion prior to September 26, 2011, counsel for the BOU Witnesses has included the Hearing Officer in communications between counsel for the parties and counsel for the BOU Witnesses in blatant attempts to create prejudice and bias on the part of the Hearing Officer against the Geary Respondents. Examples of such communications are attached hereto as Exhibit 3. At no time has the Hearing Officer instructed – much less admonished – counsel for the BOU Witnesses to refrain, cease and desist from including the Hearing Officer in any such communications. The Hearing Officer's failure to take affirmative action to prevent future attempts to create prejudice and bias reveals a lack of awareness and caution, and certainly did nothing to deter the *ex parte* communication that took place on September 26<sup>th</sup>. Viewed as a whole, the facts related to the Hearing Officer's *ex parte* communications and failure to control communications constitute reasonable grounds for recusal.

***D. Hearing Officer's Lack of Responsiveness:***

This enforcement action has been pending for more than one year. The Hearing Officer was appointed on November 9, 2010. This action has been delayed and is now stalled by a series of discovery disputes, the majority of which involve the BOU Witnesses. At present, no hearing on the merits is scheduled and no progress is being made in the case due, in large part, to the inactivity and non-responsiveness of the Hearing Officer and the BOU Witnesses' refusal to

comply with discovery efforts. While valid reasons may exist for the Hearing Officer's inactivity and lack of responsiveness, no explanation or reasons have been given. Critical discovery issues, including an *in camera* inspection, have been pending for decision by the Hearing Officer since May 6, 2011. The parties' request for feedback from the Hearing Officer for his availability for four potential hearing dates has been pending, with no response, since August 5, 2011. The Hearing Officer's lack of responsiveness, coupled with his *ex parte* communications and failure to control communications, is cause for concern and constitutes reasonable grounds for recusal.

### III. LEGAL AUTHORITY SUPPORTING RECUSAL.

By analogy, the Oklahoma Code of Judicial Conduct ("Code") provides clear guidance concerning the appropriate standard for a decision-maker, such as the Hearing Officer herein, both from a general and specific perspective. From a general perspective, the Code in its very first Canon states, "A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

More specifically, Rule 2.9 "Ex Parte Communications" in pertinent part states,

(A) A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:

(1) When circumstances require it, *ex parte* communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided: (a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication; and (b) **the judge makes provision promptly to notify all other parties of the substance of the *ex parte* communication, and gives the parties an opportunity to respond.** (Emphasis added).

Comment 1 to Rule 2.9 states, "to the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge." The Hearing Officer in this

enforcement action has engaged in multiple instances of ex parte communication, as set forth above. On each occasion it was “reasonably possible” for “all parties or their lawyers” to be included in the subject communications. Recusal is appropriate and necessary under these circumstances.

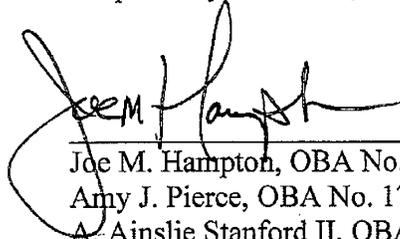
The Supreme Court of Oklahoma addressed this issue in Miller Dollarhide, P.C. v. Tal, 2007 OK 58, 163 P.3d 548. There, the Court stated, “Where there are circumstances of such a nature as to cause doubts as to a judge's partiality, it is the judge's duty to disqualify notwithstanding the judge's personal belief that the judge is unprejudiced, unbiased, and impartial. When such circumstances exist, the error, if any, should be made in favor of the disqualification rather than against it. Justice must satisfy the appearance of justice, even though this stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.” *Dollarhide at 554*. As stated above, reasonable circumstances exist to raise doubts concerning the Hearing Officer's partiality and sensitivity to the appearance of impropriety. The rule regarding disqualification of a judge when circumstances and conditions surrounding litigation are such that they might cast doubt as to the impartiality of the judgment applies equally to administrative boards acting in an adjudicatory capacity as it does to judges. *Cherokee Data Computer Parts and Service, Inc. v. Oklahoma Dept. of Labor*, 2005 OK CIV APP 81, 122 P.3d 56.

Consistent with Oklahoma law as cited herein, any uncertainty on this issue must be decided in favor of recusal.

**IV. CONCLUSION.**

Based on the foregoing discussion and authority, the Geary Respondents respectfully request that the Hearing Officer immediately recuse and withdraw from the role of Hearing Officer in this proceeding.

Respectfully submitted,



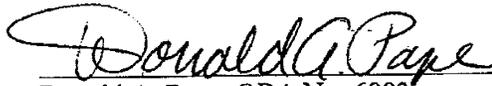
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Joe M. Hampton, OBA No. 11851  
Amy J. Pierce, OBA No. 17980  
A. Ainslie Stanford II, OBA No. 18843

**CORBYN HAMPTON PLLC**

One Leadership Square  
211 North Robinson, Suite 1910  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 239-7055  
Facsimile: (405) 702-4348  
Email: [jhampton@corbynhampton.com](mailto:jhampton@corbynhampton.com)  
[apierce@corbynhampton.com](mailto:apierce@corbynhampton.com)  
[astanford@corbynhampton.com](mailto:astanford@corbynhampton.com)

**ATTORNEYS FOR RESPONDENTS GEARY  
SECURITIES, INC., KEITH D. GEARY, AND  
CEMP, LLC**



Donald A. Pape OBA No. 6883

Donald A. Pape, P.C.

Of counsel to Phillips Murrah PC

401 West Main Street, Suite 440

Norman, OK 73069

Telephone: (405) 364-3346

Facsimile: (405) 364-4446

Email: [don@dapape.com](mailto:don@dapape.com)

and

Susan E. Bryant OBA No. 5842

Bryant Law

A Professional Corporation

39 ½ Main Street

P.O. Box 596

Camden, ME 04843

Telephone (207) 230-0066

Facsimile: (207) 230-0077

Email: [sbryant@bryantlawgroup.com](mailto:sbryant@bryantlawgroup.com)

**ATTORNEYS FOR RESPONDENT NORMAN  
FRAGER**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 3, 2011, a copy of the foregoing document was served on the following via electronic mail:

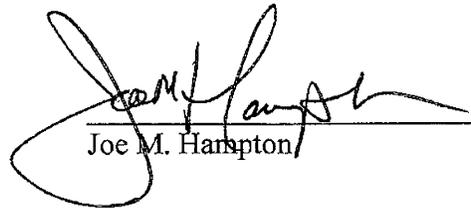
Mr. Bruce R. Kohl  
Hearing Officer  
201 Camino del Norte  
Santa Fe, NM 87501  
E-mail: [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)

Brenda London, Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102; and

Melanie Hall, Director of Enforcement  
Terra Shamas Bonnell, Enforcement Attorney  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102;

Donald A. Pape, Esq.  
Donald A. Pape, P.C.  
401 West Main Street, Suite 440  
Norman, OK 73069;

Susan Bryant  
[sbryant@bryantlawgroup.com](mailto:sbryant@bryantlawgroup.com)

  
\_\_\_\_\_  
Joe M. Hampton

# **EXHIBIT**

**1**

IRVING L. FAUGHT  
ADMINISTRATOR



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES

September 29, 2011

VIA EMAIL: [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)

Mr. Bruce R. Kohl  
201 Camino del Norte  
Santa Fe, NM 87501

Re: In re Geary Securities, Inc., et al.  
ODS File 09-141

Dear Mr. Kohl:

I was informed yesterday of a telephone communication between you and counsel for one or more nonparty witnesses in the above-referenced matter. The Enforcement Division of the Department respectfully requests a telephone conference to discuss whether you need to disqualify yourself from serving as Hearing Officer on the basis of the communication. The Department further requests that the telephone conference be set as soon as possible in light of the pending discovery motions and the rescheduling of a hearing in this matter. The Department is notifying counsel for Respondents of this request by copy of this letter.

If you would like the Department to arrange such a telephone conference as we have in the past, please advise.

Respectfully,

A handwritten signature in cursive script that reads "Terra Bonnell".

Terra Shamas Bonnell  
Enforcement Attorney

Cc: Joe M. Hampton (via email)  
Ainslie Stanford (via email)  
Donald A. Pape (via email)  
Susan Bryant (via email)

# **EXHIBIT**

**2**

**Joe M. Hampton**

---

**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)  
**Attachments:** Agreed Scheduling Order.doc

---

**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Monday, December 13, 2010 11:44 AM  
**To:** Bruce Kohl  
**Cc:** Donald A. Pape; Joe M. Hampton; Susan Bryant; Melanie Hall; Brenda London  
**Subject:** RE: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Thank you for your contact information. I added your middle initial to the attached document.

I have been informed that it is acceptable for you to attach an electronic signature to orders in this matter as long as you send the Department the original with your handwritten signature. If you email the Agreed Scheduling Order with your electronic or handwritten signature to Brenda London at [blondon@securities.ok.gov](mailto:blondon@securities.ok.gov), she will file it for you. When she receives the original with your handwritten signature, she will file it as of the date the emailed copy was filed.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Monday, December 13, 2010 11:14 AM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra -  
That would be fine. Please put my middle initial R. in my name. My contact information is as follows:

Bruce R. Kohl  
201 Camino del Norte  
Santa Fe, NM 87501  
e-mail: [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)

Do I have to manually sign the order? Let me know if you need anything else.

Bruce  
On Mon, Dec 13, 2010 at 9:43 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The parties respectfully submit the attached Agreed Scheduling Order, pursuant to 660:2-9-3(a) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities.

Please notice that paragraph 9 of the Agreed Scheduling Order requires the parties to serve filings on you by mail and email. If this provision is acceptable to you, please provide us with your mailing address.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

~~~~~  
NOTICE: This e-mail message may contain confidential and privileged information and/or litigation work product. This message is intended for the sole use of the addressed recipient(s). Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender immediately and destroy all copies of the original message.

Visit [InvestEdOK.org](http://InvestEdOK.org) for unbiased investor education resources. InvestEdOK.org is a collaboration between the Oklahoma Securities Commission and the University of Oklahoma OUTREACH.  
~~~~~

**Joe M. Hampton**

---

**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

---

**From:** Terra Bonnell [mailto:tbonnell@securities.ok.gov]  
**Sent:** Monday, December 13, 2010 1:47 PM  
**To:** Bruce Kohl  
**Cc:** Donald A. Pape; Joe M. Hampton; Susan Bryant; Melanie Hall  
**Subject:** RE: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

I made sure that all parties received your mailing address by sending copies of our emails to them. However, I doubt any party would object to including your mailing address in paragraph 9 of the Agreed Scheduling Order if you prefer to have it there.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]  
**Sent:** Monday, December 13, 2010 1:33 PM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - In reading the Scheduling Order paragraph 9 requires that copies of pleadings be sent to me directly, in addition to being filed with the Department of Securities? If so I didn't see my mailing address listed anywhere on the pleading. I have signed a copy of the order as sent and scanned as a pdf file, that I am prepared to e-mail back to you as well as mailing the original. Let me know about the above issue, and I'll send it off.  
Bruce

On Mon, Dec 13, 2010 at 10:43 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Thank you for your contact information. I added your middle initial to the attached document.

I have been informed that it is acceptable for you to attach an electronic signature to orders in this matter as long as you send the Department the original with your handwritten signature. If you email the Agreed Scheduling Order with your electronic or handwritten signature to Brenda London at [blondon@securities.ok.gov](mailto:blondon@securities.ok.gov), she will file it for you. When she receives the original with your handwritten signature, she will file it as of the date the emailed copy was filed.

**Terra Shamas Bonnell**  
Enforcement Attorney

Oklahoma Department of Securities

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Terra -

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Bruce R. Kohl

201 Camino del Norte

Santa Fe, NM 87501

e-mail: [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)

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OUTREACH.  
~~~~~

**Joe M. Hampton**

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**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Monday, December 13, 2010 2:59 PM  
**To:** Bruce Kohl  
**Cc:** Donald A. Pape; Susan Bryant; Joe M. Hampton; Melanie Hall  
**Subject:** RE: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Please proceed with the version of the Agreed Scheduling Order that I submitted on behalf of all parties. Otherwise, I have to obtain everyone's consent again which could take a few days.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Monday, December 13, 2010 2:16 PM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - It's up to you. Just let me know what final version you want me to sign.

Bruce

On Mon, Dec 13, 2010 at 12:46 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

I made sure that all parties received your mailing address by sending copies of our emails to them. However, I doubt any party would object to including your mailing address in paragraph 9 of the Agreed Scheduling Order if you prefer to have it there.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

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**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

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**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

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Oklahoma Department of Securities

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~~~~~  
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OUTREACH.  
~~~~~

**Joe M. Hampton**

---

**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)  
**Attachments:** Scan\_Doc0001.pdf

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**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Tuesday, December 14, 2010 12:02 PM  
**To:** Donald A. Pape; Joe M. Hampton; Susan Bryant  
**Cc:** Melanie Hall; Bruce Kohl; Brenda London  
**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Please see the attached Agreed Scheduling Order issued by Mr. Kohl.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, December 14, 2010 11:23 AM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra -  
Attached is the signed Scheduling Order. I will mail the original to you today. Let me know if you need anything else.  
Bruce

On Mon, Dec 13, 2010 at 1:59 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Please proceed with the version of the Agreed Scheduling Order that I submitted on behalf of all parties. Otherwise, I have to obtain everyone's consent again which could take a few days.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Monday, December 13, 2010 2:16 PM

**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - It's up to you. Just let me know what final version you want me to sign.

Bruce

On Mon, Dec 13, 2010 at 12:46 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

I made sure that all parties received your mailing address by sending copies of our emails to them. However, I doubt any party would object to including your mailing address in paragraph 9 of the Agreed Scheduling Order if you prefer to have it there.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Monday, December 13, 2010 1:33 PM

**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - In reading the Scheduling Order paragraph 9 requires that copies of pleadings be sent to me directly, in addition to being filed with the Department of Securities? If so I didn't see my mailing address listed anywhere on the pleading. I have signed a copy of the order as sent and scanned as a pdf file, that I am prepared to e-mail back to you as well as mailing the original. Let me know about the above issue, and I'll send it off.

Bruce

On Mon, Dec 13, 2010 at 10:43 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Thank you for your contact information. I added your middle initial to the attached document.

I have been informed that it is acceptable for you to attach an electronic signature to orders in this matter as long as you send the Department the original with your handwritten signature. If you email the Agreed Scheduling Order with your electronic or handwritten signature to Brenda London at [blondon@securities.ok.gov](mailto:blondon@securities.ok.gov), she will file it for you. When she receives the original with your handwritten signature, she will file it as of the date the emailed copy was filed.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [<mailto:bruce.kohl09@gmail.com>]  
**Sent:** Monday, December 13, 2010 11:14 AM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra -

That would be fine. Please put my middle initial R. in my name. My contact information is as follows:

Bruce R. Kohl

201 Camino del Norte

Santa Fe, NM 87501

e-mail: [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)

Do I have to manually sign the order? Let me know if you need anything else.

Bruce

On Mon, Dec 13, 2010 at 9:43 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The parties respectfully submit the attached Agreed Scheduling Order, pursuant to 660:2-9-3(a) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities.

Please notice that paragraph 9 of the Agreed Scheduling Order requires the parties to serve filings on you by mail and email. If this provision is acceptable to you, please provide us with your mailing address.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

~~~~~  
NOTICE: This e-mail message may contain confidential and privileged information and/or litigation work product. This message is intended for the sole use of the addressed recipient(s). Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender immediately and destroy all copies of the original message.

Visit [InvestEdOK.org](http://InvestEdOK.org) for unbiased investor education resources. InvestEdOK.org is a collaboration between the Oklahoma Securities Commission and the University of Oklahoma OUTREACH.  
~~~~~

**Joe M. Hampton**

---

**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

---

**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Wednesday, January 12, 2011 8:06 AM  
**To:** Bruce Kohl  
**Cc:** Donald A. Pape; Joe M. Hampton; Susan Bryant; Melanie Hall  
**Subject:** FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Thank you.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

**X From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, January 11, 2011 5:49 PM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - This far in advance it doesn't matter to me on the date. Under the administrative rules here, once a party requests a hearing it has to be held within a certain period, unless the period is waived by the party requesting the hearing. I just wanted to make sure we didn't have a similar situation under Oklahoma rules. Send me the agreed upon order once it's finalized.

Bruce R. Kohl  
Hearing Officer

On Tue, Jan 11, 2011 at 2:11 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

After reviewing the Oklahoma Administrative Procedures Act, the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities, and the Oklahoma Uniform Securities Act of 2004, I am not aware of any deadline for conducting the hearing. The parties have not agreed upon a specific date in April or May. Are there any days that you are unavailable or that you prefer?

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, January 11, 2011 2:00 PM  
**To:** Terra Bonnell  
**Cc:** Donald A. Pape; Susan Bryant; Joe M. Hampton; Melanie Hall  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Ms. Bonnell:

If all the parties are in agreement to an extension of the February hearing date, then please submit an Amended Scheduling Order reflecting the same for my approval. Does an extension require the waiver of any statutory or administrative deadlines for conducting a hearing? Have the parties agreed upon a date for the hearing in April or May? Let me know.

Bruce R. Kohl

Hearing Officer

On Tue, Jan 11, 2011 at 12:36 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The Department and counsel for Respondents Geary Securities, Inc., Keith Geary and CEMP, LLC, respectfully request that the hearing date set for February 23, 2011, be moved to April or May, 2011. Counsel for Respondent Norman Frager does not object to this request. Please advise how you wish to proceed regarding this request and whether the parties may submit an Amended Agreed Scheduling Order.

Respectfully,

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

~~~~~  
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Visit [InvestEdOK.org](http://InvestEdOK.org) for unbiased investor education resources. InvestEdOK.org is a collaboration between the Oklahoma Securities Commission and the University of Oklahoma  
OUTREACH.  
~~~~~

**Joe M. Hampton**

---

**Subject:** FW: FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)  
**Attachments:** Proposed Agreed Amended Scheduling Order\_3.doc

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**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Thursday, February 03, 2011 8:33 AM  
**To:** Bruce Kohl  
**Cc:** Donald A. Pape; Susan Bryant; Joe M. Hampton; Melanie Hall  
**Subject:** RE: FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Mr. Kohl:

The Parties respectfully submit the attached Proposed Agreed Amended Scheduling Order, rescheduling the hearing to May 17, 2011.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, February 01, 2011 12:23 PM  
**To:** Terra Bonnell  
**Subject:** Re: FW: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - Has agreement been reached on vacating the February hearing and rescheduling for March or April? Please let me know. Thanks.

Bruce R. Kohl

On Wed, Jan 12, 2011 at 7:06 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Thank you.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, January 11, 2011 5:49 PM  
**To:** Terra Bonnell

**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Terra - This far in advance it doesn't matter to me on the date. Under the administrative rules here, once a party requests a hearing it has to be held within a certain period, unless the period is waived by the party requesting the hearing. I just wanted to make sure we didn't have a similar situation under Oklahoma rules. Send me the agreed upon order once it's finalized.

Bruce R. Kohl

Hearing Officer

On Tue, Jan 11, 2011 at 2:11 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

After reviewing the Oklahoma Administrative Procedures Act, the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities, and the Oklahoma Uniform Securities Act of 2004, I am not aware of any deadline for conducting the hearing. The parties have not agreed upon a specific date in April or May. Are there any days that you are unavailable or that you prefer?

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Tuesday, January 11, 2011 2:00 PM  
**To:** Terra Bonnell  
**Cc:** Donald A. Pape; Susan Bryant; Joe M. Hampton; Melanie Hall  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al. (ODS 09-141)

Ms. Bonnell:

If all the parties are in agreement to an extension of the February hearing date, then please submit an Amended Scheduling Order reflecting the same for my approval. Does an extension require the waiver of any statutory or administrative deadlines for conducting a hearing? Have the parties agreed upon a date for the hearing in April or May? Let me know.

Bruce R. Kohl

Hearing Officer

On Tue, Jan 11, 2011 at 12:36 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The Department and counsel for Respondents Geary Securities, Inc., Keith Geary and CEMP, LLC, respectfully request that the hearing date set for February 23, 2011, be moved to April or May, 2011. Counsel for Respondent Norman Frager does not object to this request. Please advise how you wish to proceed regarding this request and whether the parties may submit an Amended Agreed Scheduling Order.

Respectfully,

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

~~~~~  
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OUTREACH.  
~~~~~

**Joe M. Hampton**

---

**Subject:** FW: Geary Securities, Inc., et al.

---

**From:** Terra Bonnell [mailto:tbonnell@securities.ok.gov]  
**Sent:** Friday, February 11, 2011 3:17 PM  
**To:** Bruce Kohl  
**Cc:** Joe M. Hampton; Donald A. Pape; Melanie Hall; Brenda London  
**Subject:** RE: Geary Securities, Inc., et al.

Mr. Kohl:

The Department does not have an objection to the issuance of the subpoenas. The procedure you have suggested sounds fine. We will notify Mr. Hampton once the seal is affixed so that he can send someone to pick them up.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]  
**Sent:** Friday, February 11, 2011 11:41 AM  
**To:** Terra Bonnell; Melanie Hall  
**Subject:** Geary Securities, Inc., et al.

Dear Ms. Bonnell and Ms. Hall:

I hadn't heard from you regarding the request of Respondents to have issued Subpoenas Duces Tecum and Deposition Subpoenas, so I am assuming you have no objection. Accordingly I will prepare and sign the requested subpoenas today and mail them to your office in order for the Oklahoma Department of Securities seal to be affixed. You can then deliver them to the Respondents for service. Please let me know if you will object, or if you have a different suggested procedure for service.

Bruce R. Kohl  
Hearing Officer

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Visit [InvestEdOK.org](http://InvestEdOK.org) for unbiased investor education resources. InvestEdOK.org is a collaboration between the Oklahoma Securities Commission and the University of Oklahoma OUTREACH.

---

**Joe M. Hampton**

---

**Subject:** FW: Geary - ODS (subpoenas for docs and deps.)

---

**From:** Terra Bonnell [mailto:tbonnell@securities.ok.gov]  
**Sent:** Friday, March 18, 2011 2:28 PM  
**To:** Bruce Kohl  
**Cc:** don@dapape.com; Ainslie Stanford; Joe M. Hampton; Melanie Hall  
**Subject:** RE: Geary - ODS (subpoenas for docs and deps.)

Mr. Kohl:

I will initiate the call. A notice to the parties is probably unnecessary because the parties agreed to the conference call this morning. I don't believe that the participation of the third-parties will be necessary. If one of the other parties disagrees, I ask that they please respond to this email accordingly.

Thank you for accommodating our request.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]  
**Sent:** Friday, March 18, 2011 2:08 PM  
**To:** Terra Bonnell  
**Subject:** Re: Geary - ODS (subpoenas for docs and deps.)

Terra -  
This Monday the 21st at 1:00 CST would be fine for me. Would you please initiate the conference call from your office. I don't have the capability here to conference in multiple lines. Please let me know, and if necessary I can send a notice to the parties, and I assume the third-party recipients of the subpoenas. You may call me on either (505) 982-4125, or (505) 310-1468 (mobile).

Thank you,  
Bruce R. Kohl  
Hearing Officer

On Fri, Mar 18, 2011 at 1:02 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

May the parties schedule a conference call with you on Monday, March 21, at 1:00 p.m. (CST)?

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

tbonnell@securities.ok.gov

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]

**Sent:** Tuesday, March 15, 2011 3:48 PM

**To:** John J. Schirger

**Cc:** Joe M. Hampton; [don@dapape.com](mailto:don@dapape.com); Matthew W. Lytle; Melanie Hall; Terra Bonnell

**Subject:** Re: Geary - ODS (subpoenas for docs and depositions.)

Ladies and Gentlemen:

I am in receipt of a Motion to Quash and for Protective Order (the "Motion") in the matter captioned *Geary Securities, Inc. fka Capital West Securities, Inc.; Keith D. Geary; Norman Frager; and CEMP, LLC*, ODS File No. 09-141 (the "Administrative Proceeding"), filed by third parties The Bank of Union, John Shelley, Mike Braun and Tim Hedington (together the "Third Parties"), requesting that certain subpoenas for production of records and depositions issued at the request of the Respondents in the Administrative Proceeding be quashed, and a protective order issued by the Hearing Officer.

My understanding from the e-mail message cited below is that respective counsel for the Respondents and the Third Parties are attempting to resolve the scope of production of the subpoenaed records and the scope of depositions, such that action by the Hearing Officer on the Motion may not be required. Accordingly, please advise the undersigned by the close of business on Monday, March 21, as to whether the issue has been resolved, or alternatively that it cannot be resolved so that action on the Motion will be required. If an amicable resolution of this issue cannot be reached between the Respondents and the Third Parties, then I will establish a short briefing schedule, and schedule a telephonic hearing in order to inform myself of the facts and law necessary to rule on the Motion.

Thank you for your cooperation.

Bruce R. Kohl

Hearing Officer

On Tue, Mar 15, 2011 at 1:51 PM, John J. Schirger <[JSchirger@millerschirger.com](mailto:JSchirger@millerschirger.com)> wrote:

Joe and Don – I anticipate getting a proposal to you tomorrow to resolve the above issue. I am traveling the rest of the week. Please call my cell to contact me -- 913 / 671-9010. Thanks.

John

John J. Schirger

**MILLER SCHIRGER LLC**

4520 Main Street, Suite 1570

Kansas City, MO 64111

General: 816-561-6500

Direct: 816-561-6504

Fax: 816-561-6501

[jschirger@millerschirger.com](mailto:jschirger@millerschirger.com)

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**Joe M. Hampton**

---

**Subject:** FW: Geary - ODS (subpoenas for docs and deps.)

---

**From:** Terra Bonnell [mailto:[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)]  
**Sent:** Friday, March 18, 2011 3:48 PM  
**To:** Bruce Kohl  
**Cc:** Joe M. Hampton; don@dapape.com; Ainslie Stanford; Melanie Hall  
**Subject:** RE: Geary - ODS (subpoenas for docs and deps.)

As requested in your email, the parties would like to advise you on Monday of the status of the voluntary resolution of the discovery issues between the Bank of Union ("BOU") non-parties and the Geary Respondents. The Department would also like to discuss how to proceed with the resolution of the pending motions (BOU's Motion to Quash and the Geary Respondents' pending motions), specifically in light of depositions of non-BOU witnesses currently scheduled for next Tuesday and Wednesday.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

X

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]  
**Sent:** Friday, March 18, 2011 2:34 PM  
**To:** Terra Bonnell  
**Subject:** Re: Geary - ODS (subpoenas for docs and deps.)

What about the Motion to Quash filed by the Bank of Union et al. third party recipients of the subpoenas? Should they be allowed an opportunity to present their argument for quashing the subpoenas, or should this be handled separately in a possible subsequent hearing? Just so I can prepare, what is the subject of Monday's telephonic hearing as agreed to by the parties?

On Fri, Mar 18, 2011 at 1:27 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

I will initiate the call. A notice to the parties is probably unnecessary because the parties agreed to the conference call this morning. I don't believe that the participation of the third-parties will be necessary. If one of the other parties disagrees, I ask that they please respond to this email accordingly.

Thank you for accommodating our request.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

tbonnell@securities.ok.gov

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]

**Sent:** Friday, March 18, 2011 2:08 PM

**To:** Terra Bonnell

**Subject:** Re: Geary - ODS (subpoenas for docs and deps.)

Terra -

This Monday the 21st at 1:00 CST would be fine for me. Would you please initiate the conference call from your office. I don't have the capability here to conference in multiple lines. Please let me know, and if necessary I can send a notice to the parties, and I assume the third-party recipients of the subpoenas. You may call me on either (505) 982-4125, or (505) 310-1468 (mobile).

Thank you,

Bruce R. Kohl

Hearing Officer

On Fri, Mar 18, 2011 at 1:02 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

May the parties schedule a conference call with you on Monday, March 21, at 1:00 p.m. (CST)?

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

tbonnell@securities.ok.gov

---

**From:** Bruce Kohl [mailto:[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)]

**Sent:** Tuesday, March 15, 2011 3:48 PM

**To:** John J. Schirger

**Cc:** Joe M. Hampton; [don@dapape.com](mailto:don@dapape.com); Matthew W. Lytle; Melanie Hall; Terra Bonnell

**Subject:** Re: Geary - ODS (subpoenas for docs and depositions.)

Ladies and Gentlemen:

I am in receipt of a Motion to Quash and for Protective Order (the "Motion") in the matter captioned *Geary Securities, Inc. fka Capital West Securities, Inc.; Keith D. Geary; Norman Frager; and CEMP, LLC*, ODS File No. 09-141 (the "Administrative Proceeding"), filed by third parties The Bank of Union, John Shelley, Mike Braun and Tim Hedington (together the "Third Parties"), requesting that certain subpoenas for production of records and depositions issued at the request of the Respondents in the Administrative Proceeding be quashed, and a protective order issued by the Hearing Officer.

My understanding from the e-mail message cited below is that respective counsel for the Respondents and the Third Parties are attempting to resolve the scope of production of the subpoenaed records and the scope of depositions, such that action by the Hearing Officer on the Motion may not be required. Accordingly, please advise the undersigned by the close of business on Monday, March 21, as to whether the issue has been resolved, or alternatively that it cannot be resolved so that action on the Motion will be required. If an amicable resolution of this issue cannot be reached between the Respondents and the Third Parties, then I will establish a short briefing schedule, and schedule a telephonic hearing in order to inform myself of the facts and law necessary to rule on the Motion.

Thank you for your cooperation.

Bruce R. Kohl

Hearing Officer

On Tue, Mar 15, 2011 at 1:51 PM, John J. Schirger <[JSchirger@millerschirger.com](mailto:JSchirger@millerschirger.com)> wrote:

Joe and Don – I anticipate getting a proposal to you tomorrow to resolve the above issue. I am traveling the rest of the week. Please call my cell to contact me -- 913 / 671-9010. Thanks.

John

John J. Schirger

**MILLER SCHIRGER LLC**

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**Joe M. Hampton**

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**Subject:** FW: In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

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**From:** Terra Bonnell [mailto:tbonnell@securities.ok.gov]  
**Sent:** Friday, April 29, 2011 4:03 PM  
**To:** Donald A. Pape; Joe M. Hampton; Ainslie Stanford; Susan Bryant  
**Cc:** Melanie Hall; Bruce Kohl  
**Subject:** FW: In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

Counsel:

The telephonic hearing on the discovery motion and status conference is set for **Friday, May 6, 2011, at 11:00 a.m. CDT**. You will receive a formal notice of hearing on Monday. The dial-in number will also be distributed next week.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**X From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]  
**Sent:** Thursday, April 28, 2011 4:17 PM  
**To:** Terra Bonnell  
**Subject:** Re: In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

Ms. Bonnell -  
That would be fine to set the hearing for Friday.  
Thank you.

On Thu, Apr 28, 2011 at 12:02 PM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The hearing in the subpoena enforcement action has been reset to Thursday, May 5th, at 2:00 p.m. Scheduling our hearing and status conference on the morning of Friday, May 6<sup>th</sup>, may eliminate the need for an additional status conference. If you agree, I will arrange a conference call and send out a notice of hearing for Friday, May 6<sup>th</sup>, at 11:00 a.m. CDT.

**Terra Shamas Bonnell**

Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

tbonnell@securities.ok.gov

---

**From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]

**Sent:** Thursday, April 28, 2011 11:32 AM

**To:** Joe M. Hampton

**Cc:** Terra Bonnell; Melanie Hall; Donald A. Pape; Susan Bryant; Ainslie Stanford

**Subject:** Re: In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

Dear Mr. Hampton, et al.:

I have not heard from other counsel as to possible dates for a hearing on your discovery motion. I am not available Tuesday or Wednesday of next week, but would be available Thursday or Friday. So barring any objections as to the date, let's say next Thursday, May 5th at 11:00 am CDT. If that's acceptable to all parties, Ms. Bonnell would you please have your office arrange a conference call at that time and send out a notice of hearing. I also want to deal at that time with an update on the status of discovery that the parties were to provide by the end of April, and see if we can reschedule a final hearing date in this matter.. Please let me know as soon as possible if there are any other pending motions or issues we need to address at this hearing.

Please contact me if you have any questions.

Bruce R. Kohl

Hearing Officer

On Thu, Apr 28, 2011 at 6:25 AM, Joe M. Hampton <JHampton@corbynhampton.com> wrote:

Dear Mr. Kohl:

Due to my deposition schedule in other matters, my revised availability for the requested Hearing is as follows:

April 29: 8 a.m. – noon;

May 2: 8 a.m. – noon;

May 3: 1p.m.-5 p.m.;

May 5: 8 a.m.-noon; and

May 6: 8 a.m. – 1 p.m.

Thank you,

Joe Hampton

---

**From:** Joe M. Hampton  
**Sent:** Tuesday, April 26, 2011 6:28 PM

**To:** 'Bruce Kohl'  
**Cc:** 'Terra Bonnell'; 'Melanie Hall'; 'Donald A. Pape'; 'Susan Bryant'; Ainslie Stanford  
**Subject:** In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

Dear Mr. Kohl:

This is to follow up on my April 12, 2011 email below.

As previously noted, my clients have requested a hearing on their pending Motion for Preclusion Order and Alternative Motion to Compel Production of Documents Wrongfully Withheld by Department. The Motion is now fully at issue and fully briefed. This renewed request for a hearing date on the Motion is made consistent with your prior admonition to all counsel to keep working on discovery during this interim period. Please be advised that I can be available for a hearing on the following dates and times:

April 29, 2011 10 a.m.-noon, 2-4 p.m.;

May 2, 2011 9 a.m.-noon, 2-4 p.m.; and

May 3, 2011 9 a.m.-11:30 a.m.

Thank you,

Joe Hampton

---

**From:** Joe M. Hampton  
**Sent:** Tuesday, April 12, 2011 8:28 AM  
**To:** 'Bruce Kohl'  
**Cc:** 'Terra Bonnell'; 'Melanie Hall'; 'Donald A. Pape'; 'Susan Bryant'; Ainslie Stanford  
**Subject:** In the Matter of Geary Securities, Inc., et al; ODS File No. 09-141

Dear Mr. Kohl:

For purposes of scheduling a hearing on the Geary Respondents' pending Motion for Preclusion Order and Alternative Motion to Compel Production of Documents Wrongfully Withheld by Department, I can be available at the following times:

April 15, 2011 8 a.m. – noon;

April 18, 2011 8 a.m. – 5 p.m.; and

April 22, 2011 8 a.m.-noon.

I apologize for my limited availability over the next two weeks; however, I have a number of depositions and a hearing scheduled during this time period.

Thank you,

Joe Hampton

**Joe M. Hampton**

---

**Subject:** FW: In the matter of Geary Securities, Inc., et al.; ODS 09-141

---

**From:** Terra Bonnell [mailto:tbonnell@securities.ok.gov]  
**Sent:** Monday, May 16, 2011 10:17 AM  
**To:** Bruce Kohl  
**Cc:** Ainslie Stanford; Joe M. Hampton; Melanie Hall; Donald A. Pape  
**Subject:** RE: In the matter of Geary Securities, Inc., et al.; ODS 09-141

Mr. Kohl:

I have the audio files on a CD. I have not sent them to you yet because the parties are trying to work out an agreement on the procedure for the in camera review.

**Terra Shamas Bonnell**  
Enforcement Attorney  
Oklahoma Department of Securities  
Direct Phone: 405.280.7715  
Fax: 405.280.7742  
[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)

---

**From:** Bruce Kohl [mailto:bruce.kohl09@gmail.com]  
**Sent:** Monday, May 16, 2011 10:02 AM  
**To:** Terra Bonnell  
**Subject:** Re: In the matter of Geary Securities, Inc., et al.; ODS 09-141

Terra - Did you figure out how to get me the audio files? Let me know.  
Thank you,  
Bruce

On Mon, May 9, 2011 at 1:52 PM, Bruce Kohl <[bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com)> wrote:  
Terra -  
We can try a link if you want to. Let me know.  
Bruce R. Kohl

On Mon, May 9, 2011 at 8:01 AM, Terra Bonnell <[tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov)> wrote:

Mr. Kohl:

The Department can email you a link that would allow you to download the 3 audio files and the Pershing emails, or we can send them to you on a CD. Do you have a preference?

**Terra Shamas Bonnell**  
Enforcement Attorney

Oklahoma Department of Securities

Direct Phone: 405.280.7715

Fax: 405.280.7742

tbonnell@securities.ok.gov

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OUTREACH.  
~~~~~

# **EXHIBIT**

**3**

**Joe M. Hampton**

---

**Subject:** FW: ODS v. BOU et al.; Order in CJ-2011-2277

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**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Tuesday, August 16, 2011 5:59 PM  
**To:** Ainslie Stanford  
**Cc:** ifaught@securities.ok.gov; bruce.kohl09@gmail.com; Joe M. Hampton; Shaun Mullins; John J. Schirger; gbryant@mswerb.com; tbonnell@securities.ok.gov; Melanie Hall  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie:

In his August, 10, 2011, email to you, John committed that to the extent they existed, all remaining additional documents responsive to the subpoenas, as modified by the Court's July 25, 2011, Order would be produced by August 17, 2011. As expected, a diligent search by The Bank of Union found are no additional, non-privileged documents related to the CEMP 2009-1 transaction. The Bank of Union's search did, however, yield additional documents related to its purchase of the individual private label mortgage backed securities.

The additional, non-privileged documents related to The Bank of Union's purchase of the individual private label mortgage backed securities are currently out to a copy service for reproduction. While we had hoped to have the deliverable media by close of business, such that the documents could be overnighted to you today, for delivery tomorrow, we are informed that the media will not be available until tomorrow morning. Tomorrow, we will overnight to you, for delivery Thursday morning, a CD or CDs containing all additional, non-privileged responsive documents. Consistent with John's commitment to produce those documents by August 17, 2011, please let me know if you would like us to begin emailing those documents to you, in batches, upon receipt from the copy service, or whether a Thursday morning delivery will suffice. In either event, we will overnight the CD or CDs tomorrow for delivery on Thursday morning.

The one-week delay in The Bank of Union's final production should in no way impact or prejudice your ability to review the documents and depose Messrs. Shelley and Braun within the time frame set forth in the Court's Order.

The Bank of Union is aware of its continuing obligation to supplement its production, and will do so should additional, non-privileged responsive documents be discovered in the future. Please contact me with any additional questions you may have. Thank you.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
mlytle@millerschirger.com

---

**From:** Ainslie Stanford [mailto:ASanford@Corbyhampton.com]  
**Sent:** Thursday, August 11, 2011 5:20 PM  
**To:** John J. Schirger; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

John:

It is our client's position that this response is not acceptable in light of the Oklahoma County District Court's clear Order, given the extraordinary delays to this point.

Our client will seek its remedies with ODS and expects that the ODS will seek enforcement of the Oklahoma County District Court's Order, and let the Court decide the appropriate resolution to this matter.

Thanks,

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
Direct Dial: (405) 602-1867  
Fax: (405) 702-4348  
[www.corbynhampton.com](http://www.corbynhampton.com)

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**From:** John J. Schirger [mailto:JSchirger@millerschirger.com]  
**Sent:** Wednesday, August 10, 2011 5:41 PM  
**To:** Ainslie Stanford; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie – this is on our radar and we can commit to producing additional documents, if any, on or before next Wednesday, August 17. If you still want to have a call on this matter, that is fine, but Matt and I are not available tomorrow or Friday as we are both traveling and/or in depositions. We would be available for a call on Saturday or next Monday or Tuesday at various times. Thanks.

John

John J. Schirger  
**MILLER SCHIRGER LLC**  
4520 Main Street, Suite 1570  
Kansas City, MO 64111  
General: 816-561-6500  
Direct: 816-561-6504  
Fax: 816-561-6501  
[jschirger@millerschirger.com](mailto:jschirger@millerschirger.com)

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---

**From:** Ainslie Stanford [mailto:ASanford@Corbynhampton.com]  
**Sent:** Wednesday, August 10, 2011 3:39 PM  
**To:** John J. Schirger; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** ODS v. BOU et al.; Order in CJ-2011-2277

Gentlemen:

In light of the attached Order and the requirement of production of documents within 14 days of the date of entry of the Order, we request a discovery conference either tomorrow or Friday to address the lack of compliance with the Order. As of this afternoon on August 10<sup>th</sup>, we have received no documents. We are available for this conference any time tomorrow, August 11th (other than from 1-3 p.m.) and any time Friday August 12<sup>th</sup> after 11 a.m. Please advise of your availability.

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
Direct Dial: (405) 602-1867  
Fax: (405) 702-4348  
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**Joe M. Hampton**

---

**Subject:** FW: ODS v. BOU et al.; Order in CJ-2011-2277

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Wednesday, August 17, 2011 12:26 PM  
**To:** Ainslie Stanford  
**Cc:** ifaught@securities.ok.gov; bruce.kohl09@gmail.com; Joe M. Hampton; Shaun Mullins; John J. Schirger; gbryant@mswerb.com; tbonnell@securities.ok.gov; Melanie Hall  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie:

We now have the deliverable media from the copy service. Having received no response to my email of last evening, we will begin emailing the documents to you, in batches and under separate cover, consistent with John's commitment to produce those documents by August 17, 2011. We will also overnight to you, for delivery Thursday, August 18, 2011, a CD containing documents Bates numbered BOU 001699 – BOU 004136, which consist of those additional documents discovered through The Bank of Union's diligent search of its records related to The Bank of Union's 2008 purchases of the individual private label mortgage backed securities. As indicated in my email of last evening, a diligent search by The Bank of Union found no additional, non-privileged documents related to the CEMP 2009-1 transaction.

Although The Bank of Union is aware of its continuing obligation to supplement its production, and will do so should additional, non-privileged responsive documents be discovered in the future, this production completes The Bank of Union's production of all non-privileged documents responsive to the administrative subpoenas, as modified by the Court's July 25, 2011, Order.

Please contact me with any additional questions you may have. Thank you.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Matthew W. Lytle  
**Sent:** Tuesday, August 16, 2011 5:59 PM  
**To:** 'Ainslie Stanford'  
**Cc:** ifaught@securities.ok.gov; 'bruce.kohl09@gmail.com'; Joe M. Hampton; Shaun Mullins; John J. Schirger; gbryant@mswerb.com; tbonnell@securities.ok.gov; Melanie Hall  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie:

In his August, 10, 2011, email to you, John committed that to the extent they existed, all remaining additional documents responsive to the subpoenas, as modified by the Court's July 25, 2011, Order would be produced by August 17, 2011. As expected, a diligent search by The Bank of Union found are no additional, non-privileged documents

related to the CEMP 2009-1 transaction. The Bank of Union's search did, however, yield additional documents related to its purchase of the individual private label mortgage backed securities.

The additional, non-privileged documents related to The Bank of Union's purchase of the individual private label mortgage backed securities are currently out to a copy service for reproduction. While we had hoped to have the deliverable media by close of business, such that the documents could be overnighted to you today, for delivery tomorrow, we are informed that the media will not be available until tomorrow morning. Tomorrow, we will overnight to you, for delivery Thursday morning, a CD or CDs containing all additional, non-privileged responsive documents. Consistent with John's commitment to produce those documents by August 17, 2011, please let me know if you would like us to begin emailing those documents to you, in batches, upon receipt from the copy service, or whether a Thursday morning delivery will suffice. In either event, we will overnight the CD or CDs tomorrow for delivery on Thursday morning.

The one-week delay in The Bank of Union's final production should in no way impact or prejudice your ability to review the documents and depose Messrs. Shelley and Braun within the time frame set forth in the Court's Order.

The Bank of Union is aware of its continuing obligation to supplement its production, and will do so should additional, non-privileged responsive documents be discovered in the future. Please contact me with any additional questions you may have. Thank you.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
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[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

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**From:** Ainslie Stanford [mailto:[AStanford@Corbynhampton.com](mailto:AStanford@Corbynhampton.com)]  
**Sent:** Thursday, August 11, 2011 5:20 PM  
**To:** John J. Schirger; Matthew W. Lytle; [gbryant@mswerb.com](mailto:gbryant@mswerb.com)  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

John:

It is our client's position that this response is not acceptable in light of the Oklahoma County District Court's clear Order, given the extraordinary delays to this point. Our client will seek its remedies with ODS and expects that the ODS will seek enforcement of the Oklahoma County District Court's Order, and let the Court decide the appropriate resolution to this matter.

Thanks,

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
Direct Dial: (405) 602-1867  
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**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie – this is on our radar and we can commit to producing additional documents, if any, on or before next Wednesday, August 17. If you still want to have a call on this matter, that is fine, but Matt and I are not available tomorrow or Friday as we are both traveling and/or in depositions. We would be available for a call on Saturday or next Monday or Tuesday at various times. Thanks.

John

John J. Schirger  
**MILLER SCHIRGER LLC**  
4520 Main Street, Suite 1570  
Kansas City, MO 64111  
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**From:** Ainslie Stanford [mailto:AStanford@Corbynhampton.com]  
**Sent:** Wednesday, August 10, 2011 3:39 PM  
**To:** John J. Schirger; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** ODS v. BOU et al.; Order in CJ-2011-2277

Gentlemen:

In light of the attached Order and the requirement of production of documents within 14 days of the date of entry of the Order, we request a discovery conference either tomorrow or Friday to address the lack of compliance with the Order. As of this afternoon on August 10<sup>th</sup>, we have received no documents. We are available for this conference any time tomorrow, August 11<sup>th</sup> (other than from 1-3 p.m.) and any time Friday August 12<sup>th</sup> after 11 a.m. Please advise of your availability.

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
Direct Dial: (405) 602-1867

Fax: (405) 702-4348  
[www.corbynhampton.com](http://www.corbynhampton.com)

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**Joe M. Hampton**

---

**Subject:**

FW: ODS v. BOU et al.; Order in CJ-2011-2277

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]

**Sent:** Thursday, August 18, 2011 11:46 AM

**To:** Ainslie Stanford

**Cc:** [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com); Joe M. Hampton; Shaun Mullins; John J. Schirger; [gbryant@mswerb.com](mailto:gbryant@mswerb.com); [tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov); Melanie Hall

**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie:

Ordinarily, I would allow an email like yours below to stand for what it is; an inflammatory, self serving effort to distract the Department and the Hearing Officer from the substance of the proceeding—your clients' misconduct—by manufacturing a discovery dispute at the expense of The Bank of Union and Mr. Headington, who are *non-parties* to the ODS proceeding. In this case, however, it is necessary to correct certain inaccuracies in your recitation of the facts, and respond to your varied demands and expectations.

1. On April 11, 2011, we produced almost 1,700 pages of documents on behalf of The Bank of Union, and over 100 pages of documents on behalf of Timothy C. Headington, responsive to Respondents' Requests for Production of Documents in FINRA Arbitration No. 10-02803. The cover letter accompanying that production expressly provided that the documents were "also being produced, subject to and without waiving any available and appropriate objections, [in response] to the document subpoenas issued in the administrative proceeding currently pending before the Oklahoma Department of Securities." In an April 12, 2011, email, John Schirger advised you that, "on the ODS subpoenas for documents," "all documents related to the underlying CEMP transactions" were included in the April 11, 2011, production which was being made "without waiving any objections." Your April 12, 2011, response states no objection to the joint production, nor does it indicate that there is any confusion about which documents had been produced or what they had been produced in response to. Indeed, at no time before your email from yesterday did you, or anyone on your clients' behalves, object to the joint production.

In fact, during the May 5, 2011, hearing on the ODS's Application for Order Enforcing Subpoenas and our clients' counter Motion to Quash or For Protective Order, Shaun Mullins, representing Commissioner Faught and arguing for enforcement of the subpoenas on your clients' behalves, informed Judge Warren that "some documents have been produced," and that it was "fair to say" that "certain documents have been produced and ... that dates for depositions have been proposed." (May 5, 2011, Trans. at 5:14-15, 7:2-5). Moreover, Mr. Schirger had a discussion with you after the hearing during which you indicated there was no need to reproduce those documents that had already been produced. As with your April 12<sup>th</sup> email, at no time during this discussion did you indicate that you were at all confused about, or otherwise unable to determine, what documents had been produced or that they had been produced in response to. Given your proclivity for selective recall, we apparently should have confirmed that conversation in writing. We will certainly do so in the future.

2. As for your contention that "the document requests in the FINRA proceedings served by the Respondents differed from the document subpoenas in this matter," it is belied by even a cursory comparison of the FINRA requests and the subpoenas. Not only are the subpoena requests nearly identical to certain of the FINRA

requests, they are subsumed by the other exceptionally broad FINRA requests. What is more, as modified by the Court's July 25, 2011, Order, the subpoenas required that the Bank of Union and Mr. Headington:

"produce only those documents relating to the 2009 transactions involving The Bank of Union and Timothy Headington's purchases 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."

The fact that the Court's Order granting our clients' motion for protective order and limiting the scopes of the subpoenas was not entered until approximately 3 ½ months (not more than 4 as you suggest) after the April 11<sup>th</sup> production does nothing but highlight the fact that The Bank of Union and Mr. Headington exercised good faith in attempting to comply with the overly-broad subpoenas before the Court's involvement. Furthermore, to the extent the documents produced on April 11<sup>th</sup> exceed the scope set out in the Order, The Bank of Union and Mr. Headington have gone above and beyond what was required by the Court.

The facts cannot be ignored. The end result of the Court proceedings and the Order, i.e., subpoenas properly limited in substantive and temporal scope, could have been accomplished months earlier, and without the Court's involvement or the accompanying delays and increased burden and expense to the ODS and our third-party clients, had you not utterly refused to negotiate the subpoenas as Mr. Schirger repeatedly invited.

3. Regarding your demands that the documents be produced "immediately," while you were busy drafting your below email, we were busy sending you 12 separate emails containing the additional responsive documents that The Bank of Union *and Mr. Headington* identified through diligent searches of their records following entry of the Court's July 25<sup>th</sup> Order.

With respect to your further demand that the documents be "identified in a coherent manner that allows [your] client, ODS and the Court to determine what documents are being produced, and what they are being produced in response to," please consider the documents produced on April 11<sup>th</sup> as being produced in response to the first prong of the Court's Order. That is to say that the documents produced on April 11<sup>th</sup> are "those documents relating to the 2009 transactions involving The Bank of Union and Timothy Headington's purchases of the Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or A-2, issued by CEMP Resecuritization Trust 2009-1." As indicated in my August 16<sup>th</sup> and 17<sup>th</sup> emails, including each of yesterday's 12 separate submissions, the documents produced yesterday are those additional responsive documents, not previously produced, relating to "the 2008 transactions involving The Bank of Union's purchases of certain private label mortgage backed securities."

4. We are aware of no legal basis for your "expectation" that "both the Bank of Union and Tim Headington, will submit verifications that they have completed a diligent search for all responsive documents, and that no others have been located." Based on our review, nothing in either the Court's July 25<sup>th</sup> Order, or the Oklahoma Discovery Code, requires that either The Bank of Union or Mr. Headington submit such verifications. If you are aware of specific authority to the contrary, please provide it for our review. Again, as indicated in my August 16<sup>th</sup> and 17<sup>th</sup> emails, The Bank of Union *and Mr. Headington* are aware of their continuing obligations to supplement their productions, and will do so should additional, non-privileged, responsive documents be discovered in the future.

Similarly nothing in the Court's July 25<sup>th</sup> Order requires the production of a privilege log, let alone that it be produced by a date certain. Nevertheless, we will produce a privilege log to the extent required by and consistent with the provisions of the Oklahoma Discovery Code, not by the August 18, 2011, deadline you arbitrarily demand, but within a reasonable time agreed to by the parties. Bear in mind that The Bank of Union and Mr. Headington are third-parties to the ODS proceeding, that we have welcomed good faith negotiation about the proper scopes of the subpoenas from the outset, and that, but for your refusal to negotiate, the delay and expense associated with the subpoena enforcement proceeding would not have been necessary.

To further the goal of a speedy resolution to the ODS proceeding, now that all non-privileged, responsive documents have been produced, we suggest that you stop the hyperbole laden, inflammatory correspondence, and turn your attention to the merits of the ODS proceeding.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Ainslie Stanford [mailto:AStanford@Corbynhampton.com]  
**Sent:** Wednesday, August 17, 2011 1:33 PM  
**To:** Matthew W. Lytle  
**Cc:** bruce.kohl09@gmail.com; Joe M. Hampton; Shaun Mullins; John J. Schirger; gbryant@mswerb.com; tbonnell@securities.ok.gov; Melanie Hall  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Matt:

Your email below makes repeated reference to "all remaining additional documents" and implies there has been a previous production of documents responsive specifically to the subpoenas in the ODS administrative action against our client. This is not accurate.

On April 11, the deadline to produce documents in a separate FINRA proceeding, your firm sent a letter and a CD of documents representing to be documents responsive to separate discovery requests in a separate FINRA proceeding involving disparate parties from this matter. The cover letter sent with the disc in the FINRA matter represented the documents on the disc were also being produced in response to the document subpoenas issued in the ODS administrative proceeding. As you are well aware, the document requests in the FINRA proceeding served by the Respondents differed from the document subpoenas in this matter. As you also know, the documents you produced on the disc are not segmented or organized in any way between the two proceedings. A brief review of the documents on the CD shows a large number of the documents are in no way responsive to the directive of the District Court's July 25<sup>th</sup> Order. The fact is that these documents were produced more than four months before the Court's Order in this matter. Your clients continue to fail to meaningfully respond to the document subpoenas or to the Court's Order.

Your email below repeatedly references actions taken by the Bank of Union, and its search for documents. As you are well aware, the District Court's July 25<sup>th</sup> Order was directed to two separate and distinct parties as it pertained to document production obligations of your clients, those being the Bank of Union and Tim Headington. Your email below wholly fails to address any search of any kind that has been done by Tim Headington in response to the Court's Order.

In response to your question regarding when we want all documents responsive to the Court's July 25<sup>th</sup> Order delivered, the answer is by August 9, 2011 – the deadline under the Court's Order. As that did not happen and we were not contacted prior to expiration of the deadline, we expect that the documents will be delivered immediately, and will be identified in a coherent manner that allows our client, ODS and the Court to determine what documents are being produced, and what they are being produced in response to. Further, we expect that your clients, both the Bank of Union and Tim Headington, will submit verifications that they have completed a diligent search for all responsive documents, and that no others have been located. To the extent BOU or Mr. Headington are attempting to rely on any documents produced on April 11<sup>th</sup> in the context of the FINRA arbitration case, those documents should be (a) reproduced in this case, or (b) specifically identified by bates number and reference to specific items listed on the Exhibits A to the document subpoenas served on BOU and Mr. Headington. We expect all these belated steps to be accomplished and completed no later than 5 p.m. tomorrow, August 18, 2011. Further we expect a comprehensive privilege log, as required by the Oklahoma Discovery Code, by 5 p.m. tomorrow, August 18, 2011.

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
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[www.corbynhampton.com](http://www.corbynhampton.com)

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**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Tuesday, August 16, 2011 5:59 PM  
**To:** Ainslie Stanford  
**Cc:** [ifaught@securities.ok.gov](mailto:ifaught@securities.ok.gov); [bruce.kohl09@gmail.com](mailto:bruce.kohl09@gmail.com); Joe M. Hampton; Shaun Mullins; John J. Schirger; [gbryant@mswerb.com](mailto:gbryant@mswerb.com); [tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov); Melanie Hall  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie:

In his August 10, 2011, email to you, John committed that to the extent they existed, all remaining additional documents responsive to the subpoenas, as modified by the Court's July 25, 2011, Order would be produced by August 17, 2011. As expected, a diligent search by The Bank of Union found are no additional, non-privileged documents related to the CEMP 2009-1 transaction. The Bank of Union's search did, however, yield additional documents related to its purchase of the individual private label mortgage backed securities.

The additional, non-privileged documents related to The Bank of Union's purchase of the individual private label mortgage backed securities are currently out to a copy service for reproduction. While we had hoped to have the deliverable media by close of business, such that the documents could be overnighted to you today, for delivery tomorrow, we are informed that the media will not be available until tomorrow morning. Tomorrow, we will overnight to you, for delivery Thursday morning, a CD or CDs containing all additional, non-privileged responsive documents. Consistent with John's commitment to produce those documents by August 17, 2011, please let me know if you would like us to begin emailing those documents to you, in batches, upon receipt from the copy service, or whether a Thursday morning delivery will suffice. In either event, we will overnight the CD or CDs tomorrow for delivery on Thursday morning.

The one-week delay in The Bank of Union's final production should in no way impact or prejudice your ability to review the documents and depose Messrs. Shelley and Braun within the time frame set forth in the Court's Order.

The Bank of Union is aware of its continuing obligation to supplement its production, and will do so should additional, non-privileged responsive documents be discovered in the future. Please contact me with any additional questions you may have. Thank you.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Ainslie Stanford [mailto:AStanford@Corbynhampton.com]  
**Sent:** Thursday, August 11, 2011 5:20 PM

**To:** John J. Schirger; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

John:

It is our client's position that this response is not acceptable in light of the Oklahoma County District Court's clear Order, given the extraordinary delays to this point.

Our client will seek its remedies with ODS and expects that the ODS will seek enforcement of the Oklahoma County District Court's Order, and let the Court decide the appropriate resolution to this matter.

Thanks,

A. Ainslie Stanford II  
Corbyn Hampton, PLLC  
211 N. Robinson, Suite 1910  
Oklahoma City, OK 73102  
Phone: (405) 239-7055  
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**From:** John J. Schirger [mailto:JSchirger@millerschirger.com]  
**Sent:** Wednesday, August 10, 2011 5:41 PM  
**To:** Ainslie Stanford; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** RE: ODS v. BOU et al.; Order in CJ-2011-2277

Ainslie – this is on our radar and we can commit to producing additional documents, if any, on or before next Wednesday, August 17. If you still want to have a call on this matter, that is fine, but Matt and I are not available tomorrow or Friday as we are both traveling and/or in depositions. We would be available for a call on Saturday or next Monday or Tuesday at various times. Thanks.

John

John J. Schirger  
**MILLER SCHIRGER LLC**  
4520 Main Street, Suite 1570  
Kansas City, MO 64111  
General: 816-561-6500  
Direct: 816-561-6504  
Fax: 816-561-6501  
[jschirger@millerschirger.com](mailto:jschirger@millerschirger.com)

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**From:** Ainslie Stanford [mailto:AStanford@Corbynhampton.com]  
**Sent:** Wednesday, August 10, 2011 3:39 PM  
**To:** John J. Schirger; Matthew W. Lytle; gbryant@mswerb.com  
**Cc:** Joe M. Hampton; Shaun Mullins  
**Subject:** ODS v. BOU et al.; Order in CJ-2011-2277

Gentlemen:

In light of the attached Order and the requirement of production of documents within 14 days of the date of entry of the Order, we request a discovery conference either tomorrow or Friday to address the lack of compliance with the Order. As of this afternoon on August 10<sup>th</sup>, we have received no documents. We are available for this conference any time tomorrow, August 11<sup>th</sup> (other than from 1-3 p.m.) and any time Friday August 12<sup>th</sup> after 11 a.m. Please advise of your availability.

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Corbyn Hampton, PLLC  
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**Joe M. Hampton**

---

**Subject:**

FW: In the Matter of Geary Securities, Inc., et al; ODS No. 09-141

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]

**Sent:** Wednesday, September 28, 2011 7:29 PM

**To:** Joe M. Hampton

**Cc:** Bruce R. Kohl (bruce.kohl09@gmail.com); John J. Schirger; Ainslie Stanford; 'Terra Bonnell' (tbonnell@securities.ok.gov); 'Donald A. Pape' (don@dapape.com)

**Subject:** RE: In the Matter of Geary Securities, Inc., et al; ODS No. 09-141

Joe:

Our responses to the issues raised in your September 26<sup>th</sup> email are, in the order raised, as follows:

1. The individual directors you subpoenaed have no responsive documents. Therefore, no documents were produced. Your "impression" from my prior email that "there were responsive documents" is incorrect.
2. Because the individual directors had no responsive documents, no documents were withheld on the basis of privilege.
3. As you know, the law provides certain protections against unreasonable burden on witnesses who are not parties to a proceeding. Considering the fact that potentially three sets of counsel would be questioning each director, it appeared unlikely that six depositions could be completed over the course of two days. Upon further reflection on our part, attempting to jam six depositions into two eight hour days would have required that the Bank's directors sit waiting in limbo, possibly for hours, while you completed each deposition. This approach would have provided no certainty to the directors such that they could schedule their other affairs around their depositions. As third parties to the ODS proceeding, you certainly cannot expect the directors to bear such an unreasonable burden.

In an effort to provide some scheduling certainty and minimize the burden on the third-party witnesses, we proposed that you depose two directors on September 29<sup>th</sup> and two directors on September 30<sup>th</sup>, with the remaining two depositions to be rescheduled to coincide with the depositions of John Shelley and Mike Braun. You will recall that during our September 27<sup>th</sup> conversation, I suggested that we would consider proceeding with three depositions on each day, if you would consider agreeing to limit their duration in a way that would allow their orderly scheduling and completion. But rather than work cooperatively to schedule the depositions in a manner that would reduce the burden on the third-party deponents, while still allowing you the opportunity to get the discovery you want, you opted to unilaterally cancel the depositions. Your decision to cancel the depositions as opposed to taking them in a manner that would have benefited all parties and counsel involved clearly demonstrates your intent to unnecessarily and unreasonably inconvenience the directors and not to obtain any meaningful discovery. As a result of your decision, we consider the subpoenas expired and will entertain no further negotiations about scheduling the directors' depositions.

With respect to the depositions of John Shelley and Mike Braun, they have been willing to comply with the Court's Order. As previously requested to avoid unnecessary back-and-forth communications about dates, it would be more convenient and efficient if you will provide dates upon which counsel for all of the parties to the ODS proceeding are available so that we can coordinate those dates with our clients' schedules. We look forward to receiving those dates from you.

We have limited availability for a call tomorrow, but if you will provide times when counsel for all parties to the ODS proceeding are available, we will confirm our availability.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Tuesday, September 27, 2011 2:58 PM  
**To:** Matthew W. Lytle  
**Cc:** John J. Schirger; Ainslie Stanford; 'Terra Bonnell' (tbonnell@securities.ok.gov); 'Donald A. Pape' (don@dapape.com)  
**Subject:** In the Matter of Geary Securities, Inc., et al; ODS No. 09-141

Matt:

This is to follow up on our call earlier this afternoon. While I appreciated the opportunity to visit with you by phone, the issues raised and questions posed by my 9/26/11 e-mail (below) have not been addressed, much less resolved.

We have no option at this point but to proceed on the basis that you and John are declining to (1) commit to produce all six Directors for depositions on September 29 and 30, 2011, and (2) respond to questions we have posed concerning the production of documents responsive to the document subpoenas and/or provision of a privilege log as previously discussed and agreed. In light of these unresolved issues, and taking into consideration the respective schedules of counsel and the need for efficiency, we are left with no alternative but to cancel the depositions of on September 29 and 30, 2011. I am notifying counsel in the ODS enforcement action by copy of this e-mail. Notwithstanding this development, we will advise Mr. Kohl today that we have no objection to your Motion for Temporary Admission.

We remain willing to participate in a call to discuss and attempt to resolve the pending discovery issues involving the BOU Directors, as well as BOU officers John Shelley and Mike Braun. Our pending request for deposition dates of Messrs. Shelley and Braun continues to go unanswered. Please advise at your earliest convenience whether you and John are available to participate in a call on these issues on Thursday, September 29<sup>th</sup>. I will be occupied in depositions out of the office in another case all day tomorrow and, therefore, unavailable for a call in this matter until Thursday. Let me know a good time for a call on Thursday and I will coordinate with other counsel in the case.

Thanks,

Joe

---

**From:** Joe M. Hampton  
**Sent:** Monday, September 26, 2011 4:44 PM  
**To:** 'Matthew W. Lytle'  
**Cc:** Ainslie Stanford; 'John J. Schirger'  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Matt:

I do not understand your contention that “[e]ven if the directors had responsive documents to produce, there is nothing requiring that they be identified in the manner you request.” We requested and the Hearing Officer issued document subpoenas to each of the six Directors. If they have responsive documents, I believe they are required to produce them per the subpoenas. Your e-mail last Friday gave me the impression there were responsive documents, but they have previously been produced – presumably by BOU.

Further on the issue of responsive documents, are any being withheld based on a claim of attorney-client privilege or attorney work product? If so, please provide a privilege log promptly. See, your e-mail dated 8/31/11 (agreement to provide a privilege log by 9/16/11).

On the issue of the Directors’ depositions, we requested and the Hearing Officer approved the issuance of deposition subpoenas for all 6 Directors over two days at specific times. When John advised that the two selected dates were problematic, he (John) proposed two alternative dates – September 29 and 30. See, John’s e-mail dated 8/19/11. We polled the other counsel and accommodated John’s rescheduling request. Nothing was mentioned on August 19<sup>th</sup> or since then about a need or desire to spread the Directors’ depositions out over more than two days. As recently as last Friday you advised me that you were “still working to confirm the order of witnesses.” See, your e-mail dated 9/23/11.

We have previously accommodated requests for two different dates (September 29 and 30) and we have agreed to limit the scope of the document subpoenas as requested. However, we are not willing to make a last-minute change and depose 4 Directors on September 29 and 30, then debate whether and when the other two Directors will be deposed. ODS has listed as an exhibit an affidavit signed by six Directors and we intend to depose all six. We believe it is more efficient for all of the Directors to be deposed on consecutive days without intervening gaps in time that often create additional testimonial issues and challenges.

I am interpreting your e-mail as notification that you are declining to produce all six Directors for depositions on September 29 and 30. If I am mistaken, please advise and confirm your commitment to produce all six Directors on September 29 and 30, and provide specific times for each on each day. Otherwise, I suggest we schedule a call tomorrow and attempt to find a solution to this problem. In addition, we need to discuss my pending request for available deposition dates for John Shelley and Michael Braun. With a little advance notice I can arrange my schedule for tomorrow to be available between 8:30-9:30 a.m. and between noon-5:30 p.m. Let me know what time works for you.

Thanks,

Joe

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Monday, September 26, 2011 4:02 PM  
**To:** Joe M. Hampton  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Joe:

Because the directors have no responsive documents, there is nothing to identify by bates number. Even if the directors had responsive documents to produce, there is nothing requiring that they be identified in the manner you request.

As for the order of witnesses, given that there will be three sets of counsel questioning the directors, it seems unlikely that all 6 depositions will be completed in 2 days. Rather than having the Bank’s directors wait around for hours to be

deposed, we will produce 2 directors on September 29<sup>th</sup> and 2 others on September 30<sup>th</sup>, with depositions beginning at 9:30 a.m. and 1:30 p.m. each day. We can discuss rescheduling the other 2, if necessary, when we are all together later this week.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Friday, September 23, 2011 10:57 AM  
**To:** Matthew W. Lytle  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Matt:

Please bear in mind that document subpoenas were issued and served on the six individual Bank of Union Directors. Consistent with what has transpired in the past, please identify by bates numbers those documents that have been previously produced that are responsive to the specific items identified and requested by the document subpoenas issued and served on the Bank of Union Directors. In order for the depositions to be conducted in an efficient manner, we need to have the bates numbers as soon as possible and no later than Monday 9/26/11. In addition, please bear in mind there are two other lawyers involved in this case – counsel for ODS and counsel for Respondent Frager – so it is important that the same information and the specific order, dates and times for each of the Directors be confirmed as soon as possible.

I look forward to hearing further from you on these issues no later than Monday, and hopefully before. If I am not available, please contact Ainslie. If for some reason you are not able to communicate with us by Monday, please let us know in advance so we are not left in the dark with no communication.

Thanks,

Joe

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Friday, September 23, 2011 10:44 AM  
**To:** Joe M. Hampton  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Joe:

I was traveling earlier this week, and was unable to confer with John about the status of the production of documents by the Bank's directors until this morning. There are no additional documents to be produced by the directors, thus, you currently have all documents in your possession.

We are still working to confirm the order of witnesses.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Tuesday, September 20, 2011 4:39 PM  
**To:** Matthew W. Lytle  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** BOU / Geary ODS matter - subpoenas to Directors

Matt:

Please give me an update at your earliest convenience concerning production of documents by the BOU Directors. We previously agreed on a 9/16/11 production date. You advised me on 9/16/11 that John was handling gathering the responsive documents, but was travelling at that time. We need to have all documents responsive to the revised subpoenas produced by Thursday of this week so that we and our clients have adequate time to review prior to the BOU Directors' depositions.

Please also advise the order of witnesses (BOU Directors) for Sept. 29<sup>th</sup> and 30<sup>th</sup>.

Thanks,

Joe

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Wednesday, August 31, 2011 3:23 PM  
**To:** Joe M. Hampton  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Joe:

We will agree that the BOU directors will not lodge any objections to the revised document subpoenas on the basis of overbreadth or undue burden, all other objections including attorney-client privilege and work product being reserved.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Wednesday, August 31, 2011 3:10 PM  
**To:** Matthew W. Lytle

**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Matt:

We can agree to the 9/16/11 document production deadline, provided you are able to confirm that the BOU Directors will not lodge any objections to the revised document subpoenas, other than on the basis of the attorney-client privilege. Let me know at your earliest convenience if this is agreeable.

Thanks,

Joe

---

**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Wednesday, August 31, 2011 2:40 PM  
**To:** Joe M. Hampton  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Joe:

While we still believe that Request 4 – 7 are redundant, by striking Request 8 and limiting Request 6 in the manner noted in your redline, we agree that Exhibit A to the subpoenas comports with the Court's July 25, 2011, Order.

As for the dates you proposed, I have confirmed with John that September 29 and 30, 2011, are the dates proposed, and apparently agreed to by all parties, for the depositions. That said, because the depositions are a full month off, we propose the following with respect to the document subpoenas:

9/16/11: Deadline for (1) the BOU Directors' production of documents responsive to the document subpoenas, as revised, (2) delivery of a privilege log related to the BOU Directors' document subpoenas, and (3) identification of the bates range(s) of previously-produced documents responsive to the BOU Directors' document subpoenas (if you elect to rely on previously produced documents).

A September 16<sup>th</sup> production deadline should still allow you sufficient time to review any documents and prepare for the various depositions. Please let me know by 4:00 p.m. today if this date is acceptable. Thank you.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

---

**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Monday, August 29, 2011 3:11 PM  
**To:** Matthew W. Lytle  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Matt:

Per our discussion this afternoon, I am attaching redline and clean versions of the revised Exhibit "A" to the BOU Directors' document subpoenas. Please review and confirm your agreement with the revised Exhibit "A."

Here are the dates I previously proposed and would appreciate you confirming:

9/9/11: Deadline for (1) the BOU Directors' production of documents responsive to the document subpoenas, as revised, (2) delivery of a privilege log related to the BOU Directors' document subpoenas, and (3) identification of the bates range(s) of previously-produced documents responsive to the BOU Directors' document subpoenas (if you elect to rely on previously produced documents).

9/29/11 and 9/30/11: Depositions of the BOU Directors (per John's 8/19/11 e-mail).

Thanks,

Joe

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**From:** Matthew W. Lytle [mailto:MLytle@millerschirger.com]  
**Sent:** Monday, August 29, 2011 10:02 AM  
**To:** Joe M. Hampton  
**Cc:** Ainslie Stanford; John J. Schirger  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Joe:

An issue has arisen that may prevent John from participating in a call this afternoon. To keep things moving forward, I will handle the call, but have a client meeting at 3:00. Would it be possible to move the time up to 2:00 p.m.? If John is available, he will join from my end, if not we can proceed without him. Please let me know if that time works. Thanks.

Regards,

Matt Lytle

(816) 561-6510 - Direct  
(816) 419-2249 - Cell  
[mlytle@millerschirger.com](mailto:mlytle@millerschirger.com)

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**From:** Joe M. Hampton [mailto:JHampton@Corbynhampton.com]  
**Sent:** Monday, August 29, 2011 9:07 AM  
**To:** John J. Schirger  
**Cc:** Matthew W. Lytle; Ainslie Stanford  
**Subject:** RE: BOU / Geary ODS matter - subpoenas to Directors

Will try to call around 3 p.m.

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**From:** John J. Schirger [mailto:JSchirger@millerschirger.com]  
**Sent:** Monday, August 29, 2011 8:11 AM  
**To:** Joe M. Hampton  
**Cc:** Matthew W. Lytle  
**Subject:** BOU / Geary ODS matter - subpoenas to Directors

Joe – I am in all day today. Please give me a call to discuss the subpoenas. I have a problem with them that we should be able to work out over the phone given previous rulings in this case.

John

John J. Schirger  
**MILLER SCHIRGER LLC**  
4520 Main Street, Suite 1570  
Kansas City, MO 64111  
General: 816-561-6500  
Direct: 816-561-6504  
Fax: 816-561-6501  
[jschirger@millerschirger.com](mailto:jschirger@millerschirger.com)

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# **EXHIBIT**

**4**

**AFFIDAVIT**

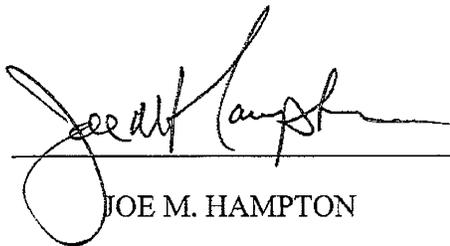
COUNTY OF OKLAHOMA            )

STATE OF OKLAHOMA            )

I, Joe M. Hampton, being first duly sworn, state as follows:

1. I am a member in good standing of the Oklahoma Bar Association, OBA No. 11851.
2. I am counsel of record for Respondents Geary Securities, Inc., Keith D. Geary, and CEMP, LLC (The "Geary Respondents") in an administrative enforcement proceeding pending before the Oklahoma Securities Department, ODS No. 09-141 (the "ODS Action").
3. I participated in a conference call hearing on September 30, 2011, with counsel for the parties and Hearing Officer Bruce Kohl to address an *ex parte* communication involving the Hearing Officer on September 26, 2011.
4. I am filing a Motion for Recusal of Hearing Officer on behalf of the Geary Respondents on October 3, 2011, in the ODS Action. The Motion for Recusal sets forth in detail and by exhibits the grounds that exist for recusal of the Hearing Officer pursuant to ODS Rules. The content of the Motion for Recusal, including exhibits, is adopted and incorporated herein by reference.

Further Affiant sayeth not.

  
\_\_\_\_\_  
JOE M. HAMPTON

NOTARY:

