

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



In the Matter of:

Jim J. Hammons,

Respondent.

ODS File 14-017

DEPARTMENT'S RESPONSE TO RESPONDENT'S FIRST DISCOVERY REQUESTS

The Oklahoma Department of Securities ("Department") submits the following objections and responses to Respondent Jim J. Hammons' First Discovery Requests to the Department, served on August 19, 2014.

RESPONSE TO RESPONDENT'S INTERROGATORIES

Respondent has propounded Interrogatories No. 1 through 22 upon the Department. The Department objects, in general, to Respondent's interrogatories because interrogatories are not an authorized form of discovery in this individual proceeding.

The Oklahoma Court of Civil Appeals has addressed the issue of whether interrogatories are available as a discovery tool in an individual proceeding before a state agency. See *State ex rel. Protective Health Servs. v. Billings Fairchild Ctr., Inc.*, 158 P.3d 484, 488 (Okla. Civ. App. 2006). The Court determined that because of the language of Section 315 of the Administrative Procedures Act, Okla. Stat. tit. §§ 250.1 through 323, the applicable questions are whether the agency has authority to make rules of procedure, and if so, what rules it has made. *Id.* The Court held that a state agency that is authorized to promulgate rules governing procedures for individual

proceedings may provide for discovery by interrogatory in its rules and may do so through adoption of the Oklahoma Discovery Code into its rules. *Id.* The use of interrogatories is not otherwise authorized.

Under the authority granted to him by Section 1-605 of the Oklahoma Uniform Securities Act of 2004 (“Act”), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), the Administrator of the Department has promulgated rules governing procedures for individual proceedings conducted under the Act. See the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (“Rules”), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1 (2013). Those rules do not adopt the Oklahoma Discovery Code or otherwise permit discovery by interrogatory in an individual proceeding conducted under the Act. Okla. Admin. Code § 660:2-9-3.

Based thereon, the Department objects to, and declines to answer, Respondent’s interrogatories. The Department reserves its other general and specific objections to Respondent’s interrogatories.

RESPONSE TO RESPONDENT’S REQUESTS FOR PRODUCTION

General Objections

1. The Department objects to Respondent’s instruction to identify each document that is being produced by production request number, description, date, author, recipient(s), number of pages and subject matter, on the basis that the instruction exceeds what is required under the Rules and is overly burdensome on the Department.

2. The Department objects to Respondent’s Requests for Production to the extent that they seek information protected by the attorney-client privilege, work-product

doctrine, deliberative process privilege, Sections 1-607 or 1-613 of the Act, or any other applicable privilege or protection. The Department is withholding the following documents that are responsive to one or more of Respondent's Requests for Production:

Description	Date	Author	Recipient(s)	# Pgs.	Subject	Basis
Notes	Multiple	Terra Bonnell	None	Varies	Telephone calls and other subjects relating to litigation	Work product
Internal Correspondence	Multiple	Terra Bonnell and other staff of Dept.	Varies	Varies	Varies	Attorney-client privilege; work-product doctrine; deliberative process privilege

3. The Department reserves all objections as to the competence, relevance, materiality, admissibility, or privileged or protected status of any information provided in response to the Document Requests, unless the Department specifically states otherwise.

4. The Department's general objections set forth above are incorporated into each of the following responses, shall be deemed continuing as to all requests, and are not waived, nor in any way limited, by the following responses.

Specific Objections and Responses

REQUEST FOR PRODUCTION NO. 1: Please produce copies of all documents and records that were used in answering, were referred to, or which support your responses to Interrogatories Nos. 1-20, submitted herewith.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: There are no such documents responsive to this particular request. Please refer to the objection made above in the Department's response to Respondent's interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce copies and/or recordings of all depositions and/or witness statements taken in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folder "No. 2".

REQUEST FOR PRODUCTION NO. 3: Please produce copies and/or recordings of all correspondences received by you relating to this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folder "No. 3".

REQUEST FOR PRODUCTION NO. 4: Please produce copies of all documents, contracts, or recordings between or among the Respondent, the "Client" (as that term is used in your Enforcement Division Recommendation), Greg Cooper, David Cooper, and/or any and all other witnesses listed in your past or current Preliminary Witness List, as relates to this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folders "No. 3," "No. 4," "No. 5" and/or "No. 7".

REQUEST FOR PRODUCTION NO. 5: Please produce copies of the three documents, and their respective attachments, listed in paragraph number 22 of your Enforcement Division Recommendation (heading, "Findings of Fact").

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folder "No. 5".

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all documents obtained by subpoena served in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: There are no such documents responsive to this particular request.

REQUEST FOR PRODUCTION NO. 7: Please produce all other documents and records in your possession relating to this matter and/or the claims and defenses therein.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folder "No. 7".

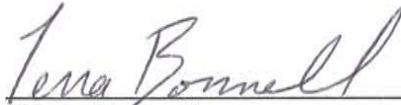
REQUEST FOR PRODUCTION NO. 8: Please produce copies of all documents which support the statements made in paragraphs number 15 and 16 of your Enforcement Division Recommendation (heading, "Findings of Fact").

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD under folder "No. 8".

REQUEST FOR PRODUCTION NO. 9: Please produce copies of all financial records and documents which support the statements made in your Enforcement Division Recommendation relating to investments, transfers, payments, receipt of monies, compensation, or other similar financial transactions which relate to this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Electronic copies of all unprivileged documents responsive to this request are provided on the enclosed CD or DVD in response to other Requests for Production Nos. 1-8.

Dated September 3, 2014.



Terra Bonnell
Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
Telephone: (405) 280-7715
Email: tbonnell@securities.ok.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of September, 2014, a true and correct copy of the above and foregoing response was emailed to perry@dentonlawfirm.com and tiffany@dentonlawfirm.com and mailed, with an enclosed CD or DVD, with postage prepaid hereon, addressed to:

Mr. Perry Tirrell, Esq.
Denton Law Firm
925 West State Highway 152
Mustang, OK 73064

Counsel for Respondent



Terra Bonnell