

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

AUG 29 2014

30. TIM RHODES  
COURT CLERK

Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, Administrator, )  
 )  
Plaintiff, )

vs. )

Case No. CJ-2014-4515

Seabrooke Investments LLC, an Oklahoma )  
limited liability company; )  
Seabrooke Realty LLC, an Oklahoma )  
limited liability company; )  
Oakbrooke Homes LLC, an Oklahoma )  
limited liability company; )  
Bricktown Capital LLC, an Oklahoma )  
limited liability company; )  
KAT Properties LLC, an Oklahoma )  
limited liability company; )  
Cherry Hill LLC, an Oklahoma limited liability )  
company doing business as Cherry Hill Apartments; )  
Tom W. Seabrooke, individually and as trustee of )  
Tom Seabrooke 2007 Revocable Trust and )  
J. Karyn Seabrooke 2007 Revocable Trust; and )  
Judith Karyn Seabrooke, individually and as )  
trustee of Tom Seabrooke 2007 Revocable Trust )  
and J. Karyn Seabrooke 2007 Revocable Trust )  
 )  
Defendants. )

**ANSWER OF DEFENDANTS, SEABROOKE INVESTMENTS, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY; SEABROOKE REALTY LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY; OAKBROOKE HOMES LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY; BRICKTOWN CAPITAL LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY; KAT PROPERTIES LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY; CHERRY HILL LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY DOING BUSINESS AS CHERRY HILL APARTMENTS; TOM W. SEABROOKE INDIVIDUALLY AND AS TRUSTEE OF TOM SEABROOKE 2007 REVOCABLE TRUST AND J. KARYN SEABROOKE 2007 REVOCABLE TRUST; AND, JUDITH KARYN SEABROOKE, INDIVIDUALLY AND AS TRUSTEE OF TOM SEABROOKE 2007 REVOCABLE TRUST AND J. KARYN SEABROOKE 2007 REVOCABLE TRUST**

Defendant Seabrooke Investments LLC, Seabrooke Realty LLC, Oakbrooke Homes LLC, Bricktown Capital LLC, KAT Properties LLC, Cherry Hill LLC, d/b/a Cherry Hill Apartments, Tom W. Seabrooke, individually and as trustee of Tom Seabrooke 2007 Revocable Trust and J. Karyn Seabrooke 2007 Revocable Trust, and Judith Karyn Seabrooke, individually and as trustee of Tom Seabrooke Revocable Trust and J. Karyn Seabrooke 2007 Revocable Trust (collectively “Defendants” or “Seabrooke”) files this, their Answer to Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator, (“Plaintiff” or “Department”) Petition (the “Petition”), and respectfully shows the Court as follows:

#### **OVERVIEW**

1. Seabrooke denies the allegations contained in Paragraph 1 and requires strict proof thereof.

#### **JURISDICTION**

2. Seabrooke is without sufficient information or knowledge to either admit or deny the allegations contained in Paragraph 2 of the Petition and therefore, the allegations are denied.

3. Seabrooke is without sufficient information or knowledge to either admit or deny the allegations contained in Paragraph 3 of the Petition and therefore, the allegations are denied.

4. Seabrooke admits the allegations contained in Paragraph 4 of the Petition.

#### **DEFENDANTS**

5. In response to Paragraph 5 of Plaintiff’s Petition, Seabrooke admits that Seabrooke Investments LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma, but specifically denies that it offered and/or sold securities in and/or from

Oklahoma as described in Plaintiff's Petition.

6. In response to Paragraph 6 of Plaintiff's Petition, Seabrooke admits that Seabrooke Realty LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma, but specifically denies that it offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

7. In response to Paragraph 7 of Plaintiff's Petition, Seabrooke admits that Oakbrooke Homes LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma, but specifically denies that it offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

8. In response to Paragraph 8 of Plaintiff's Petition, Seabrooke admits that Bricktown Capital LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma and further admits that Bricktown Capital operates as the Bricktown Hotel and Convention Center, but specifically denies that it offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

9. In response to Paragraph 9 of Plaintiff's Petition, Seabrooke admits that KAT Properties LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma, but specifically denies that it offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

10. In response to Paragraph 10 of Plaintiff's Petition, Seabrooke admits that Cherry Hill LLC is a limited liability company with its principal place of business in Oklahoma City, Oklahoma, but specifically denies that it offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

11. Seabrooke admits the allegations contained in Paragraph 11 of Plaintiff's Petition,

except Seabrooke specifically denies that Tom Seabrooke offered and/or sold securities in and/or from Oklahoma as described in Plaintiff's Petition.

12. Seabrooke admits the allegations contained in Paragraph 12 of Plaintiff's Petition, except Seabrooke specifically denies that Karyn Seabrooke engaged in acts, practices, or a course of business that materially aided violations of the Oklahoma Uniform Securities Act of 2004 (the "Act").

## **NATURE OF THE CASE**

### **2004 Investigation**

13. In response to Paragraph 13 of Plaintiff's Petition, Seabrooke admits that they received a letter from the Department notifying Tom Seabrooke of information the Department had received that Seabrooke Realty and/or KAT Properties may have been offering and/or selling securities in the nature of investment agreements or notes in violation of Oklahoma securities laws, but specifically denies that an investigation was ever commenced as a result of this letter.

14. In response to Paragraph 14 of Plaintiff's Petition, Seabrooke admits that he responded to the Department letter in the manner which is stated in Plaintiff's Petition.

15. Seabrooke admits that he received the letter dated August 30, 2004 stated in Paragraph 15 of the Petition, that the letter speak for itself, but again specifically denies that such letter constituted notice of any formal investigation having been conducted by the Department.

### **Sale of Securities After 2004**

16. Seabrooke denies the allegations contained in Paragraph 16 and requires strict proof thereof.

17. Seabrooke denies the allegations contained in Paragraph 17 and requires strict proof thereof.

18. Seabrooke denies the allegations contained in Paragraph 18 and requires strict proof thereof.

19. Seabrooke denies the allegations contained in Paragraph 19 and requires strict proof thereof.

20. In response to Paragraph 20 of Plaintiff's Petition, Seabrooke admits that Bricktown Capital entered into an Agreement with an Oklahoma Investor but denies that this constitutes a security.

21. In response to Paragraph 21 of Plaintiff's Petition, Seabrooke admits that KAT Properties issued an investment note to an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

22. In response to Paragraph 22 of Plaintiff's Petition, Seabrooke admits that Bricktown Capital entered into an Agreement with an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

23. In response to Paragraph 23 of Plaintiff's Petition, Seabrooke admits that Oakbrooke homes issued an investment note to an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

24. In response to Paragraph 24 of Plaintiff's Petition, Seabrooke admits that Bricktown Capital issued an investment note to an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

25. In response to Paragraph 25 of Plaintiff's Petition, Seabrooke admits that Oakbrooke

Homes issued an investment note to an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

26. In response to Paragraph 26 of Plaintiff's Petition, Seabrooke admits that Oakbrooke Homes issued an investment note to an Oklahoma Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

27. In response to Paragraph 27 of Plaintiff's Petition, Seabrooke admits that KAT Properties entered into an Agreement with an Oklahoma Investor but denies that this constitutes a security.

28. In response to Paragraph 28 of Plaintiff's Petition, Seabrooke admits that Seabrooke Realty issued an investment note to Washington Investors but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

29. In response to Paragraph 29 of Plaintiff's Petition, Seabrooke admits that Seabrooke Investments issued an investment note to Washington Investors but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

30. In response to Paragraph 30 of Plaintiff's Petition, Seabrooke admits that Seabrooke Investments issued an investment note to a California Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

31. In response to Paragraph 31 of Plaintiff's Petition, Seabrooke admits that Seabrooke Investments issued an investment note to a Texas Investor but denies that this constitutes a security. The rest of the allegations are denied in their entirety.

#### **Misuse of Investment Proceeds**

32. In response to Paragraph 32 of Plaintiff's Petition, Seabrooke denies the allegations

in their entirety.

33. In response to Paragraph 33 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

34. In response to Paragraph 34 of Plaintiff's Petition Seabrooke denies the allegations and requires strict proof thereof.

35. In response to Paragraph 35 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

36. In response to Paragraph 36 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

**Misrepresentations, Omissions and Fraud**

37. In response to Paragraph 37 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

38. In response to Paragraph 38 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety and further reiterates that the Investment Notes and Agreements were not securities subject to regulation of the Act.

**FIRST CAUSE OF ACTION**

**(Violation of Section 1-301 of the Act:  
Offer and Sale of Unregistered Securities)**

39. In response to Paragraph 39 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

40. In response to Paragraph 40 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety and further states that no securities were offered for sale by Plaintiffs and therefore

no registration was required pursuant to Section 1-102 of the Act.

41. In response to Paragraph 41 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

## **SECOND CAUSE OF ACTION**

### **(Violation of Section 1-402 of the Act: Transacted Business as Unregistered Agents and Employment of Unregistered Agents)**

42. Paragraph 42 requires no response.

43. In response to Paragraph 43 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety and further states that Seabrooke Investments, Seabrooke Realty, Oakbrooke Homes, Bricktown Capital, KAT Properties, and/or Cherry Hill are not issuers as defined under Section 1-102 of the Act.

44. In response to Paragraph 44 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

45. In response to Paragraph 45 of Plaintiff's Petition, Plaintiff admits that Tom Seabrooke and Karen Seabrooke are not registered as agents under Section 1-102 of the Act, but further states they were not required to do so as they were not agents as defined under Section 1-102 of the Act.

46. In response to Paragraph 46 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

47. In response to Paragraph 47 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

### **THIRD CAUSE OF ACTION**

#### **(Violation of Section 1-501 of the Act: Untrue Statements and Omissions of Material Fact)**

48. Paragraph 48 requires no response.

49. In response to Paragraph 49 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

50. In response to Paragraph 50 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

51. In response to Paragraph 51 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

### **FOURTH CAUSE OF ACTION**

#### **(Violation of Section 1-501 of the Act: Fraud or Deceit)**

52. Paragraph 52 requires no response.

53. In response to Paragraph 53 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

54. In response to Paragraph 54 of Plaintiff's Petition, Seabrooke denies the allegations in their entirety.

55. Any remaining allegations not heretofore admitted are expressly denied.

### **AFFIRMATIVE DEFENSES**

1. Defendants deny that there was a sale of securities, however, if it is determined that there has been a sale of securities these securities are exempt from registration pursuant to Okla. Stat.

Tit. 71, §§ 1-201 through 1-202 (2011).

2. Defendants deny that they were unregistered agents, however, if it is determined that there has been a sale of securities, Defendants are exempt from registration pursuant to Okla. Stat. Tit. 71, § 1-402 (2011).

3. Seabrooke reserves the right to assert additional defenses as discovery progresses in this case, with the laws of the State of Oklahoma and rules applicable to this Court.

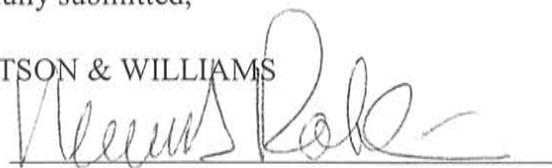
**PRAYER**

1. Seabrooke requests the following relief:
  - a. That the Plaintiff's Petition be dismissed with prejudice;
  - b. That Seabrooke be awarded its reasonable attorney's fees and costs; and
  - c. That Seabrooke have such other and further relief, both general and special, at law or in equity, to which Seabrooke may show itself justly entitled.

DATED: August 29, 2014

Respectfully submitted,

ROBERTSON & WILLIAMS

By: 

Mark A. Robertson, OBA #7663  
Michael P. Kirschner, OBA #5056  
ROBERTSON & WILLIAMS  
9658 North May Ave., Suite 200  
Oklahoma City, OK 73120  
(405) 848-1944  
(405) 843-6707 (Fax)  
ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing instrument was served on the following counsel of record on this 21 day of August, 2014.

Patricia A. Labarthe  
Jennifer Shaw  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, Oklahoma 73102

A handwritten signature in black ink, appearing to read "Mark A. Robertson", written over a horizontal line.

Mark A. Robertson



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OKLAHOMA CITY FAX 73125  
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# ROBERTSON & WILLIAMS

*Attorneys & Counselors at Law*

9658 North May Avenue, Suite 200 • Oklahoma City, OK 73120  
(405) 848-1944 • Fax (405) 843-6707

Patricia A. Labarthe  
Jennifer Shaw  
Oklahoma Department of Securities  
120 North Robinson, Ste. 860  
Oklahoma City, OK 73102