

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

Respondents.

ODS File No. 09-141

GEARY RESPONDENTS' (1) MOTION TO STRIKE WITNESSES AND ALLEGATIONS, (2) MOTION FOR PROTECTIVE ORDER TO LIMIT SCOPE OF DEPOSITIONS, (3) RESPONSE AND OBJECTION TO THE BOU NON-PARTIES' MOTION TO QUASH, AND (4) ALTERNATIVE MOTION FOR EXPEDITED ENFORCEMENT OF SUBPOENA IN THE DISTRICT COURT

Pursuant to Rule 660:2-9-3(c) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (the "Rules"), Respondents Geary Securities, Inc. (formerly known as Capital West Securities, Inc.), Keith D. Geary, and CEMP, LLC (the "Geary Respondents") respectfully submit this Motion to request that the Hearing Officer: (1) issue an Order striking witnesses and allegations relating to the Bank of Union and Timothy Headington; (2) issue an Order limiting the scope of all future depositions in this action (including, but not limited to, the depositions of Geary Respondents), as described below; (3) issue an Order denying the "Motion to Quash and For Protective Order" filed on behalf of the Bank Of Union, John Shelley, Mike Braun, and Timothy Headington (the "BOU Non-Parties"); and (4) alternatively, immediately apply to the applicable District Courts to enforce and obtain compliance with the subject subpoenas and pursue any and all applicable civil penalties, fees and contempt citations.

I. PRELIMINARY STATEMENT.

The Geary Respondents file this Motion in order to limit the scope of these proceedings, as well as all future depositions in this action, in light of the BOU Non-Parties' intentional, bad faith failure, and refusal to comply with subpoenas properly issued by the Hearing Officer pursuant to the applicable Department Rules.

The Oklahoma Department of Securities' Enforcement Division (the "Department") has focused this proceeding on the Geary Respondents' involvement in a re-securitization project that led to the purchase of securities (one each) by Bank of Union and Timothy Headington in September of 2009. In light of this focus, the Geary Respondents properly exercised their discovery rights by the issuance and service of document and deposition subpoenas on the BOU Non-Parties (the "Subpoenas"). Rather than comply, the BOU Non-Parties have moved to quash the Subpoenas and refused to comply, thereby improperly interfering with and thwarting the proper exercise of the Geary Respondents' rights under the Department Rules, the Oklahoma Administrative Procedures Act and the Oklahoma Uniform Securities Act.

It is clear that the Department initiated this administrative proceeding in an effort to put Geary Securities, Inc. and Keith Geary out of business. The Department's own Rules, as well as applicable statutory and case law, provide the Respondents with certain discovery rights, as well as due process and fundamental fairness rights. As is set forth below, the BOU Non-Parties are not uninterested bystanders in the context of this action; rather, they have been very much involved in and supportive of the Department's investigation and initiation of this action. The BOU Non-Parties' refusal to cooperate justifies and requires immediate action to protect and preserve the Geary Respondents' rights including, but not limited to, a preclusion order and a

protective order limiting the scope of all future depositions consistent with the terms of the preclusion order described in greater detail below.

II. BRIEF STATEMENT OF FACTS RELEVANT TO THIS MOTION.

1. The Enforcement Division's "Recommendation" represents the charges being brought against the Respondents. The charges fall into two factual categories: (1) the Geary Respondents' involvement in a resecuritization project that led to the purchase of securities (one each) by Bank of Union and Timothy Headington in September of 2009 (the "CEMP Charges"); and (2) Respondent Geary Securities' compliance with the net capital rule in May 2009 and February 2010 (the "Net Capital Charges"). A copy of the Recommendation is attached for reference purposes as Exhibit 1.

2. During the Department's investigation of the Respondents prior to filing this proceeding, the Department interviewed and obtained documents from Bank of Union personnel and, presumably, Mr. Headington (the majority shareholder in Bank of Union) relating to the CEMP Charges. The Department listed Bank of Union personnel (officers John Shelley and Mike Braun) and Mr. Headington on its Preliminary List of Witnesses and Exhibits filed on December 22, 2010, in connection with the CEMP Charges. A copy of the ODS Preliminary List of Witnesses and Exhibits is attached for reference purposes as Exhibit 2.

3. Pursuant to and in complete compliance with the Department's Rules, the Geary Respondents applied to the Hearing Officer to issue Subpoenas to obtain (a) documents from Bank of Union and Mr. Headington, and (b) depositions of Messrs. Shelley, Braun and Headington. The Department voiced no objection whatsoever to the requested Subpoenas. The Hearing Officer approved the Geary Respondents' request and issued the Subpoenas, after which

counsel for the Geary Respondents promptly obtained service. Copies of the Subpoenas are attached for references purposes as Exhibit 3.

4. The Subpoenas issued for the production of documents specified a document production deadline of February 25, 2011. The BOU Motion was filed on March 3, 2011, six days after the compliance deadline. A copy of the BOU Motion is attached for reference purposes as attached as Exhibit 4. As is discussed in Part III (A) below, the refusal of the BOU Non-Parties to comply with the Subpoenas deprives the Geary Respondents of their rights under the Rules and requires the issuance of meaningful relief to protect such rights.

III. ARGUMENT AND AUTHORITY.

A. THE GEARY RESPONDENTS' MOTION FOR ORDER STRIKING THE BOU NON-PARTIES AS WITNESSES AND PRECLUDING THE DEPARTMENT FROM PURSUING THE CEMP CHARGES.

It is clear the Subpoenas were properly issued by the Hearing Officer under the Rules, without any objection from any party and without any changes by the Hearing Officer. *See*, ODS Rule 660:2-9-4 (a) (authorizing Hearing Officer to issue subpoena and providing Hearing Officer right to use his discretion "as a condition precedent to the issuance of the subpoena" to require party seeking subpoena to show relevance and reasonable scope of evidence sought and to refuse to issue subpoena or condition issuance of subpoena on different terms); and 660:2-9-4(d) (providing for means of a party to object to a subpoena).

It is equally clear that the BOU Non-Parties are refusing to comply with the Subpoenas due to their misplaced complaint related to the separate Financial Industry Regulatory Authority ("FINRA") arbitration proceeding they initiated against the Geary Respondents.¹ These facts are

¹ The BOU Non-Parties' Motion to Quash also contains, without any discussion or attempted application, boilerplate objections of "overbroad, unduly burdensome, meant to harass" and "protected from disclosure by the attorney-client privilege and work product doctrine."

clear: (1) the Department initiated this administrative proceeding that has potentially dire consequences for the Respondents and the Departments' Rules, as well as the Administrative Procedures Act, guarantee the Respondents the right to conduct discovery to defend themselves; and (2) Bank of Union and Headington, as Claimants, chose to initiate a separate FINRA arbitration proceeding against the Geary Respondents that is governed by its own set of rules and procedures and has no bearing on this action. Nothing in the Department's Rules, the Administrative Procedures Act or the Oklahoma Uniform Securities Act gives the BOU Non-Parties the right to object to compliance with Subpoenas properly issued by the Hearing Officer because a separate civil arbitration proceeding is pending with FINRA.

The Geary Respondents' right and opportunity to respond to the Department's charges and present evidence and argument "on all issues involved" is expressly granted and guaranteed by Oklahoma statute. 75 Okla.Stat. § 309(C)(Okla. Admin. Procedures Act). In recognition of this absolute right, the Department's Rules provide for the issuance of subpoenas to parties and non-parties in order to obtain information on issues that may be presented by ODS. *See*, Rule 600:2-9-3 (b) and 2-9-4 (a). Depriving the Geary Respondents of their absolute right to depose and question the Department's witnesses against them in this matter constitutes an impermissible denial of due process. *See Anadarko Petroleum Corp. v. Corp. Commission*, 1993 OK CIV APP 139, 859 P.2d 535 (failure to afford applicant opportunity and notice to respond to protestor's argument, which Commission treated as evidence, constituted denial of due process, requiring that order of Commission be vacated); *Cyphers v. United Parcel Service*, 68 Ark. App. 62, 3 S.W.3d 698, 703 (Commission's failure to subpoena and require attendance of independent medical examiner who prepared a report relied upon at hearing denied a claimant her due process right of cross examination).

When a person or entity fails to participate in a hearing or the discovery process, the Department's Rules expressly contemplate and provide consequences for such failure. The BOU Non-Parties' Motion to Quash constitutes a failure and refusal to participate in the discovery process, triggering application of the remedies provided by the Rules. *See*, Rule 660:2-9-3 (f). The BOU Non-Parties are **not** disinterested bystanders in the context of this action. Rather, they willingly and actively participated in the Department's investigation and, upon information and belief, actively encouraged the Department to initiate this very action against the Geary Respondents. The Department relied heavily on the participation of the BOU Non-Parties –as information sources and listed witnesses – to assert the CEMP Charges. When asked, counsel for the Department advised counsel for the Geary Respondents that the Department's counsel: (a) did not have contact information for the BOU witnesses themselves (instead, just listed contact information for counsel for the BOU witnesses), and (b) could not voluntarily produce the BOU Non-Parties for depositions, such that Subpoenas would be required. Taken as a whole and in this context, this situation qualifies as a "failure to participate in good faith."

The sanctions provided by the Rule include "striking of any pleading" and "a preclusion order." *See*, Rule 660: 2-9-3 (f) (1) and (2). Under these circumstances, both should occur as follows:

1. The Hearing Officer should issue an Order striking the BOU Non-Parties from the Department's Preliminary and Final Witness Lists and preclude them from offering any testimony in this action; and
2. The Hearing Officer should also issue an Order striking all paragraphs in the Recommendation that concern, refer or relate to the CEMP Charges² and preclude the Department from proceeding with the CEMP Charges as part of this action.

² The following paragraphs relate to the CEMP Charges and/or the BOU Non-Parties and should be stricken: (a) "Findings of Fact" paragraphs 5, 6, 8-17, 21, 33-35, 40-94, 107-119; and (b) "Conclusions of Law" paragraphs 1, 2, 4 (b) – (g) and (j), 5, 6.

B. THE GEARY RESPONDENTS' MOTION FOR PROTECTIVE ORDER TO LIMIT THE SCOPE OF ALL FUTURE DEPOSITIONS.

In light of the BOU Non-Parties' refusal to comply with the properly issued Subpoenas, the Geary Respondents respectfully request the Hearing Officer issue an Order limiting the scope of all future depositions (including, but not limited to, the depositions of Keith Geary and Althea Roberts³) to exclude any questions or reference to the CEMP Charges or the BOU Non-Parties. As set forth above, the Geary Respondents have the right and opportunity to respond to the Department's charges and present evidence and argument on all issues involved in this proceeding. The Geary Respondents' request for a protective order is consistent with and necessary to apply and enforce the preclusion order requested herein and authorized by the Department's Rules.

C. THE GEARY RESPONDENTS' RESPONSE, OBJECTION AND MOTION TO STRIKE THE BOU NON-PARTIES' MOTION TO QUASH.

1. Pursuant to Section 315 of the Administrative Procedures Act, the Geary Respondents Object to Quashing the Subpoenas Requesting Documents.

Section 315 of the Administrative Procedures Act provides that a Hearing Officer may issue subpoenas upon the request of a party and may also quash any subpoenas so issued, however "[a] subpoena or subpoena duces tecum may not be quashed if any party objects." *Id.* at 75 Okla.Stat. § 315(B)(3)(emphasis added). The Geary Respondents hereby object to quashing the subpoenas issued; therefore, the BOU Motion to Quash should be denied.

³ The Department has issued notices for the depositions of Mr. Geary and Ms. Roberts for March 22 and 23, 2011.

2. The BOU Motion is Untimely.

Rule 660:2-9-4 provides that any person who has been served with a subpoena may object to the subpoena by filing a motion to quash “within ten (10) days or by the date the person is ordered to appear, whichever is earlier.” (emphasis added). As noted above, the document Subpoenas required compliance and production of documents by February 25, 2011, yet the Motion to Quash was not filed until March 3, 2011. As a result, the BOU Non-Parties’ attempt to quash and avoid the document Subpoenas was untimely and should be stricken and/or denied.

3. The BOU Motion is an Improper Attempt to Deprive the Geary Respondents of the Discovery Rights Granted by the Rules.

The BOU Non-Parties contend that they should not be required to provide documents or testimony because they chose to file an arbitration proceeding against Geary Securities, Keith Geary and others with FINRA and the FINRA Arbitration Rules provide limited discovery and “preclude” depositions. At its very best, the BOU Non-Parties’ contention in this regard is terribly misguided; at worst, it is completely frivolous, lacking any basis in fact or law.

First, the FINRA Arbitration Rules – which have no application or relevance here—discuss and limit the ability of a party to a FINRA arbitration case to bring a suit or legal action against another party to the FINRA arbitration. However, it is impossible to read the FINRA Arbitration Rules as precluding or prohibiting a person or entity who is the target of a state securities regulator’s enforcement action from subpoenaing and deposing the regulator’s key witnesses in the regulator’s enforcement proceeding, particularly when the regulator’s own Rules expressly grant such discovery rights to the target. *See*, FINRA Rule 12209 (found at finra.com)(“no party may bring any suit, legal action or proceeding against any other party that concerns or would resolve any of the matters raised in arbitration”). The Geary Respondents

clearly have not brought “any suit, legal action or proceeding” against the BOU Non-Parties as contemplated by FINRA Arbitration Rule 12209. Additionally, courts have found that this Rule does not prohibit all proceedings that may relate to an arbitration case. *See e.g., Arnold Chase Family, LLC v. UBS AG*, 2008 WL 3089484 (D. Conn., Aug. 4, 2008)(noting that nowhere do the FINRA Rules say that “all” or “any” judicial proceedings are barred while arbitration is pending). This action – initiated by the Department – and the FINRA arbitration case initiated by BOU and Headington are truly “apples and oranges.” The BOU Non-Parties make no effort and provide no authority to support their contention that the Hearing Officer has no power to subpoena them because of FINRA Arbitration Rules.

Moreover, the FINRA Arbitration Rules do not universally “preclude” the taking of depositions and do not prohibit the issuance of the Subpoenas issued in this administrative proceeding to the BOU Non-Parties. FINRA Rule 12510 does not preclude depositions in all instances; rather, it provides depositions can be taken in a FINRA Arbitration case “to accommodate essential witnesses who are unable or unwilling to travel long distances for a hearing and may not otherwise be required to participate in the hearing.” *Id.* Additionally, FINRA Rule 12512 clearly provides for and allows the issuance of subpoenas to both parties and non-parties in a FINRA Arbitration case. *Id.*

The BOU Non-Parties have failed to provide any authority or valid rationale to support their position that the Hearing Officer has no power under the Department’s Rules to issue subpoenas when a FINRA arbitration proceeding is pending between the subpoena recipient (BOU and Headington, non-parties to this enforcement proceeding) and a party that is the target of the enforcement proceedings (the Geary Respondents).

4. The BOU Motion was Improperly Filed by Counsel Not Authorized to Appear in this Proceeding.

The BOU Non-Parties' Motion was filed by counsel who is engaging in the unauthorized practice of law in the State of Oklahoma. The Rules Creating and Controlling the Oklahoma Bar Association ("OBA Rules") govern the practice of law in the State of Oklahoma. According to the clear definitions articulated at Article II, Section 5 of the OBA Rules, the BOU Non-Parties' counsel is an "Out-of-State Attorney." Further, this proceeding is clearly governed by the OBA Rules, as referenced in Article II, Section 5 (A) (3 & 4). The Rules specifically apply to, "all trial and appellate courts of the State of Oklahoma, as well as any boards, **departments, commissions, administrative tribunals, or other decision-making or recommending bodies created by the State of Oklahoma and functioning under its authority.**" Copies of the OBA Rules are provided as Exhibit 5.

The OBA has adopted strict procedures for registration of Out-of-State Attorneys. An Out-of-State Attorney may appear in an action or proceeding only upon: 1) registering with the Oklahoma Bar Association; and 2) obtaining the approval of the court, arbitrator, mediator, or administrative or governmental hearing officer where the action or proceeding is pending. The Oklahoma Bar Association has verified that counsel for the BOU Non-Parties has not registered with the Oklahoma Bar Association, and there is no record of any approval by the Hearing Officer for the BOU Non-Parties' counsel to participate in this proceeding.

The Department's Rules are consistent with the OBA Rules. Both explicitly prohibit the unauthorized practice of law. Rule 660:2-9-5 provides that "any party shall have the right to appear in person and by counsel, provided however, that such counsel representing the party must be duly licensed to practice law by the Supreme Court of Oklahoma." *Id.* Presumably, this same rule would apply to any person or entity appearing in an administrative proceeding in an

attempt to quash a subpoena. Counsel for the BOU Non-Parties has apparently made no effort to comply with the requirements to practice law in the State of Oklahoma. Counsel's non-compliance in this regard further supports issuance of an Order striking and/or denying the BOU Non-Parties' Motion to Quash.

5. The BOU Non-Parties' Alternative "Suggestion" of an Order Requiring Negotiation of the Subpoenas' Scope Lacks Credibility and Fails to Avoid Issuance of the Relief Requested by the Geary Respondents.

By letter dated February 18, 2011, counsel for the Geary Respondents provided courtesy copies of the Subpoenas to counsel for the BOU Non-Parties and advised counsel: "Should you wish to discuss these subpoenas or any matter related to them, please do not hesitate to call. We will certainly work with you and the witnesses to accommodate any scheduling issues." *See*, Exhibit 6. On February 23, 2011, counsel for the BOU Non-Parties contacted the Geary Respondents' counsel and acknowledged the BOU Non-Parties' receipt of the Subpoenas and instructed the Geary Respondents' counsel to "assume" compliance would not occur within the timeframe required by the Subpoenas, "if at all". *See*, John Schirger's 2/23/11 email (included in Ex. 6). Within two hours, counsel for the Geary Respondents responded and reiterated their willingness to work with the BOU Non-Parties to accommodate any scheduling issues that might arise. *See*, Ainslie Stanford's 2/23/11 email (included in Ex. 6).

On February 28, 2011, after receiving no response of any kind from counsel for the BOU Non-Parties, counsel for the Geary Respondents reached out to counsel for the BOU Non-Parties to ascertain the intent of the BOU Non-Parties as it related to their compliance with the Subpoenas. *See*, Ainslie Stanford's 2/28/11 email (included in Ex. 6). Counsel for the BOU Non-Parties responded and advised that he had been busy with various tasks, but, "You have my

word that if we elect to fight this, I will let you know so you can do what you have to do.” *See*, John Schirger’s 2/28/11 email (included in Ex. 6).

No communication of any kind occurred between counsel for the BOU Non-Parties and counsel for the Geary Respondents between February 28th and March 3rd. On March 3, 2011, the Geary Respondents’ counsel received a copy of the BOU Non-Parties’ Motion to Quash via email and fax, both after 5 p.m.

On March 7, 2011, counsel for the Geary Respondents again reached out to counsel for the BOU Non-Parties and inquired concerning the BOU Non-Parties’ positions and intentions regarding submission to depositions in this action. *See*, Joe Hampton’s 3/7/11 email (included in Ex. 6). Counsel for the BOU Non-Parties eventually responded that he was “traveling”⁴ and would call on March 9th to discuss the matter. *See*, John Schirger’s 3/8/11 email (included in Ex. 6).

Counsel for the BOU Non-Parties has made **no** effort to communicate with counsel for the Geary Respondents since his March 8th email promising to call the next day. The communications discussed above (and included in Exhibit 6) clearly reveal the suggestion of a negotiated resolution was included in the Motion to Quash for the sake of appearance only, providing further support for issuance of the relief requested herein.

⁴ Interestingly, counsel for the Geary Respondents has since discovered that counsel for the BOU Non-Parties’ travels on March 7th included a meeting in Oklahoma City across the street from the offices of counsel for the Geary Respondents.

D. THE GEARY RESPONDENTS' ALTERNATIVE MOTION FOR EXPEDITED ENFORCEMENT OF THE SUBPOENAS IN OKLAHOMA COUNTY DISTRICT COURT AND REQUEST FOR CIVIL PENALTIES AND CONTEMPT CITATION.

As set forth herein, the Geary Respondents believe that the proper and fair course of action in this matter is to enter an Order: (1) striking witnesses and allegations relating to the CEMP Charges and the BOU Non-Parties; and (2) limiting the scope of all future depositions in this action (including, but not limited to, the depositions of Keith Geary and Althea Roberts). Anything less than the foregoing requested relief is a violation of due process and will impair and materially prejudice the Geary Respondents' rights immediately or, at a minimum, necessarily delay this proceeding which would have the effect of materially impairing and prejudicing the rights of the Geary Respondents.

Alternatively and without in any way waiving the requests for relief set forth above, the Department Rules provide that if a subpoena recipient fails to appear or produce documents, a party may apply to the Administrator for enforcement of the subpoena. *See*, Rule 660:2-9-4(e). In the event the Hearing Officer denies, in whole or in part, the Geary Respondents' Motion to Strike and Motion for Protective Order limiting the scope of depositions, then the alternative request is that the Administrator immediately and within five (5) business days apply to the District Court for enforcement of the Subpoenas.⁵ *Id.* Likewise, pursuant to 71 Okla.Stat. § 1-602, the Geary Respondents alternatively request that the Administrator seek not only the production of documents and submission to depositions, but also seek the civil penalties allowed by this section (a civil penalty up to a maximum of \$250,000 for multiple violations in a single

⁵ In this event, the Geary Respondents further request that the Hearing Officer issue an interim protective order suspending and deferring any further depositions until the outcome of the District Court enforcement proceeding is known and final.

proceeding), as well as any contempt citations that may be available as a result of any disobedience of the District Court's order. *See*, 75 Okla.Stat. § 315(C)(2).

This matter is currently set for Hearing commencing on May 17, 2011. Given that the Hearing is approximately 60 days away, there can be no delay of any enforcement proceedings in this matter. Therefore, any enforcement proceedings in the District Court must commence immediately. Notwithstanding the foregoing alternative request, the Geary Respondents reiterate their request for relief in the form of preclusion orders as being necessary and appropriate to protect and preserve the Geary Respondents' rights.

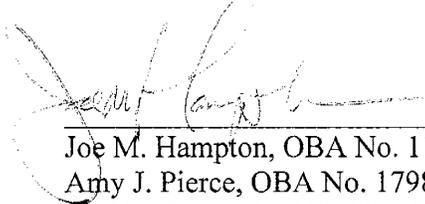
IV. CONCLUSION.

Based on the foregoing discussion, argument and authorities, the Geary Respondents respectfully request that the Hearing Officer:

- A. Enter an Order (a) striking the names of John Shelley, Mike Braun and Timothy Headington from the Department's witness list and precluding those individuals from providing any testimony in this proceeding, including at the time of the Hearing, (b) striking "Findings of Fact" paragraphs 5, 6, 8-17, 21, 33-35, 40-94, 107-119, and "Conclusions of Law" paragraphs 1, 2, 4 (b) -- (g) and (j), 5, 6, of the Enforcement Division Recommendation and precluding the Department from attempting to introduce any evidence and seeking any relief in connection with the CEMP Charges and the subject matter of such Paragraphs; and (c) limiting the subject matter of any deposition of any witness (including, but not limited to Keith Geary and Althea Roberts) to prohibit any question or reference to any allegations referring or relating to the CEMP Charges, the Bank of Union, John Shelley, Mike Braun and Timothy Headington; and
- B. Enter an Order Denying the BOU Non-Parties' Motion to Quash; or

C. Alternatively, immediately apply to the applicable District Court to compel production of documents and attendance at depositions, and additionally pursue any and all available civil penalties, fines, and contempt citations.

Respectfully submitted,



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

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2011, a copy of the foregoing document was served on the following via electronic mail:

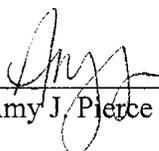
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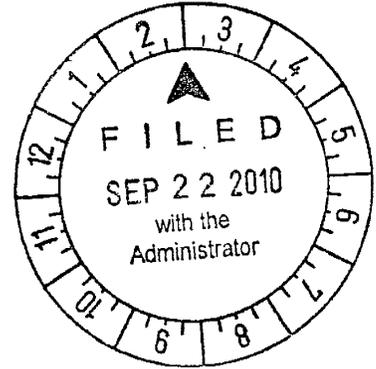
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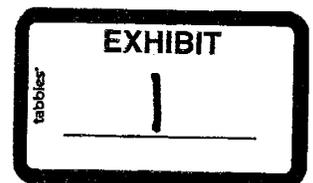
File No. 09-141

ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2009), the Enforcement Division of the Oklahoma Department of Securities (Department) conducted an investigation into the activities of Capital West Securities, Inc., Keith D. Geary, Norman Frager, and CEMP LLC (collectively, the "Respondents"), in connection with the purchase, offer and/or sale of securities in and/or from the state of Oklahoma.

The Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules) set forth the standards of ethical practices for broker-dealers and their agents. As more specifically set forth below, Respondents Capital West Securities, Inc., Keith D. Geary and Norman Frager have engaged, and may continue to be engaging, in unethical broker-dealer practices. Such practices include making untrue statements of material fact; making material omissions; making unsuitable recommendations to clients; failing to act in the best interest of clients; creating and perpetuating conflicts of interest; buying and selling securities at inflated prices; failing to honor offers to purchase; failing to maintain required net capital; and/or continuing business operations while under net capital.

The Enforcement Division submits the following Findings of Fact, Authorities, and Conclusions of Law to the Administrator of the Department (Administrator) in support of sanctions against Respondents.



Findings of Fact

I. Background

A. Relevant Persons

1. Capital West Securities, Inc., an Oklahoma corporation, was registered as a broker-dealer under the Oklahoma securities statutes on May 25, 1995. At all times material hereto, the firm's principal business location has been at 211 North Robinson, Suite 200, Oklahoma City, Oklahoma.

2. In August of 2007, Capital West Securities, Inc. became a wholly-owned subsidiary of The Geary Companies, Inc., a Delaware corporation. As of December 1, 2009, Capital West Securities, Inc. changed its name to Geary Securities, Inc. With respect to all matters addressed herein, the broker-dealer will be referred to as Geary Securities. At all times material hereto, Geary Securities was also registered as an investment adviser under the Act.

3. Keith Geary (Geary), a resident of the state of Oklahoma, owns The Geary Companies equally with his wife. Geary is the chief executive officer of The Geary Companies, and is Chairman, Chief Executive Officer and President of Geary Securities. Geary has been registered under the Act as a broker-dealer agent of Geary Securities since April 25, 2007.

4. Norman Frager (Frager) is, and at all times material hereto has been, the designated Financial Principal for Geary Securities. As the Financial Principal, Frager functions as the firm's chief financial officer responsible for the preparation and filing of the firm's Financial and Operational Combined Uniform Single (FOCUS) reports, to include net capital computations. At all times material hereto, Frager has been a resident of the state of Missouri. Frager is present in the Oklahoma City office of Geary Securities two to three days per month.

5. CEMP LLC, a Delaware limited liability company formed on July 16, 2009, is wholly owned by The Geary Companies. CEMP LLC is a special purpose entity created by The Geary Companies to engage in activities such as acquiring and pooling residential loans and mortgage and agency securities, and offering mortgage or asset-related securities. The business address of CEMP LLC is 211 North Robinson, Suite 200, Oklahoma City, Oklahoma. At all times material hereto, CEMP LLC was not registered under the Act in any capacity and employed or associated with persons who were not registered under the Act.

6. The CEMP Resecuritization Trust 2009-1 is a statutory trust formed on August 13, 2009, under the laws of the state of Delaware at the direction of Geary (CEMP 2009-1). At times material hereto, the trust issued and sold its Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and Class A-2 (the "CEMP Class A-1 Notes" and the "CEMP Class A-2 Notes") (collectively, the "CEMP 2009-1 Offering"). Geary Securities served as the placement agent for the offering.

7. Geary Securities and CEMP LLC are under the common ownership and control of The Geary Companies and Geary.

8. Joseph D. McKean (McKean) is sole owner and Chairman of the Board of Directors of Frontier State Bank (Frontier) in Oklahoma City, Oklahoma. McKean is also an owner and Chairman of the Board of Directors of another bank located in Oklahoma that will hereinafter be referred to as Bank A.

B. Targeted Clientele

9. At times material hereto, Geary promoted a leveraged investment program to various Oklahoma financial institutions as a way for such institutions to purchase assets with wholesale funding collateralized by the purchased assets (the "Leveraged Investment Program").

10. Among the assets that could be purchased through the Leveraged Investment Program were agency and private label collateralized mortgage obligations. As explained by Geary, investments by a financial institution in collateralized mortgage obligations provided monthly cash flow that reduced the amount of principal at risk and lessened the potential interest rate risk to the institution. He represented that with daily monitoring and evaluation of investment performance and interest rate risk, the investments could generate a thirty percent (30%) pre-tax return.

11. At times material hereto, Frontier utilized the Leveraged Investment Program. In October of 2008, the Federal Deposit Insurance Corporation (FDIC) alleged that Frontier State Bank was engaging in unsafe and unsound banking practices to include utilization of the Leveraged Investment Program. A hearing was ordered to commence on June 1, 2009 (the "Frontier/FDIC Hearing").

12. At times material hereto, Geary recommended that other Oklahoma financial institutions purchase certain private label collateralized mortgage obligations (PL-CMOs), to wit: Bank A; Bank B, a bank located in Oklahoma; and Bank C, a bank located in Oklahoma (collectively with Frontier, the "Banks"). Beginning in or around March of 2008, each of the Banks purchased multiple PL-CMOs through Geary Securities.

C. Regulatory Concerns

13. Subsequent to the purchase of the PL-CMOs by the Banks, the FDIC, the Office of the Comptroller of the Currency (OCC), and/or the Oklahoma State Banking Department challenged the PL-CMO holdings in the Banks' investment portfolios, primarily because of the downgraded ratings of collateralized mortgage obligations by certain of the rating agencies.

14. On April 30, 2009, the FDIC issued Financial Institution Letter (FIL-20-2009) addressing banks with portfolio holdings in structured credit investment products, to include collateralized mortgage obligations. Specifically, FIL-20-2009 notified FDIC-insured financial institutions of the agency's enhanced scrutiny of the institutions' risk management policies and procedures, and their investment portfolio composition, performance and risks. Further, the FDIC warned that any weaknesses in these areas would be reflected in the supervisory ratings and capital requirements of the institution under review.

15. Based on the issuance of FIL-20-2009 by the FDIC, Geary concluded that a unique secondary market would develop as a result of the expected liquidation of PL-CMOs by banks in response to regulatory concerns.

16. On May 22, 2009, The Geary Companies formed Mortgage Pool Credit Enhancement, LLC (MPCE), an Oklahoma limited liability company. Geary, the registered agent of the company, described MPCE as a vehicle through which downgraded PL-CMOs could be purchased from banks, at a potential profit, and combined with a credit enhancement to create a new "AAA" rated "re-securitized" security suitable for purchase by banks. Geary expected the sale of the repackaged securities to be a new profit center for Geary Securities.

17. MPCE never commenced operations. The Geary Companies subsequently created CEMP LLC to fulfill the intended role of MPCE.

II. Frontier State Bank

18. On May 1, 2009, the FDIC notified Frontier through a Prompt Correction Action (PCA) letter that the bank would be required to amend and re-file its December 31, 2008 and March 31, 2009 call reports due to certain of its PL-CMO holdings and the downgraded ratings associated therewith.

19. On or about May 15, 2009, McKean advised Geary that Frontier was exploring the sale or repackaging of certain of its PL-CMOs and asked Geary to check the price at which seven identified PL-CMOs could be sold. Geary responded by promoting the MPCE.

A. Frontier's Decision to Sell

20. The Frontier Board of Directors subsequently voted to sell the bank's PL-CMOs that were characterized by the FDIC as "sub-investment grade" through bids solicited from authorized broker-dealers, including Geary Securities.

21. On the morning of Frontier's release of the solicitations for bids, Geary and McKean met. McKean's summary of the discussions of that meeting was communicated on McKean's behalf to officers and directors of Frontier and Geary in an e-mail sent Tuesday, May 26, 2009, at 10:11 a.m., that stated in pertinent part as follows:

I met with Keith early this morning, Tuesday, May 26th.

Capital West can buy PL-CMOs as a Dealer. CW plans to bid on our package which goes out today. Keith will bid then in such a manner as to allow for a 1-5% GAIN on the sale, and will be the highest bidder of all the bids. These will be owned directly by CW. JDM & [Customer D] will not be involved in these purchases. CW can fund these purchases via short term loans from Pershing/Mellon Bank.

Within about 2-4 weeks, CW will repackage these PL-CMOs into 1A1 PL-CMOs with a AAA Rating and into B1 PL-CMOs with a Sub Investment Grade Rating. FSB, [Bank A], JDM, and [Customer D] will be allowed to purchase the AAA rated PL-CMOs at the same net rate that CW purchased them. JDM will be allowed to purchase the B1 PL-CMOs.....again at the same net rate that CW purchased them. No Fees. No Gain or Loss to CW.

CW will retain all coupon earnings pro rated to the number of days they own the securities.

** * **

CW will close on all of these purchases on Thursday, May 28th. Cash to be transferred to FSB by wire transfer on the 28th.

** * **

Next week, after the Trial is over, we are likely to repeat this process with the Downgraded PL-CMO[s] that remain in our portfolio. We'll see how this goes, and then make that decision then.

22. Geary had a specific purpose for buying the downgraded PL-CMOs at prices he knew would be higher than those of other bidders, *i.e.*, to purchase the PL-CMOs to be the underlying collateral for the CEMP 2009-1 Offering – an offering of securities that he intended to sell at a “meaningful” profit for Geary Securities.

1. First Frontier Pool

23. Bids were solicited by Frontier on twelve (12) PL-CMOs beginning on Tuesday, May 26, 2009 (the “First Frontier Pool”). The deadline for submission of the bids was the next day at noon (EST). The original face values of the PL-CMOs in the First Frontier Pool totaled \$118,801,150.

24. With respect to one of the PL-CMOs in the First Frontier Pool, Geary Securities submitted a bid that was almost ten (10) times higher than another of the bids received by Frontier. With respect to other PL-CMOs in the First Frontier Pool, Geary Securities submitted bids to purchase that were as much as two to over four times higher than the next highest bids received by Frontier. Geary determined the bid prices submitted by Geary Securities.

25. The bid prices submitted by Geary Securities were accepted by Frontier on May 27th. The trades were entered on May 28th for same day settlement. On May 28, 2009, the PL-CMOs in the First Frontier Pool were sold by Frontier and purchased by Geary Securities. Frontier received the sales proceeds, totaling in excess of \$77,000,000, on May 28th, through the routine daily net settlement process of Geary Securities’ clearing broker.

26. Frontier reported a gain of over \$3,600,000 from the sale of the First Frontier Pool.

2. Second Frontier Pool

27. On June 1, 2009, Frontier solicited bids for six other PL-CMOs in its portfolio (the "Second Frontier Pool"). The original deadline for submission of these bids was close of business on Friday, June 5th. The time period for submission of bids was subsequently shortened to the close of business on Thursday, June 4th. The original face values of the PL-CMOs in the Second Frontier Pool totaled \$44,502,000.

28. Geary Securities responded to Frontier by submitting bids on only four of the PL-CMOs in the Second Frontier Pool by the June 4th deadline. At the same time, Geary advised Frontier not to sell a Banc of America PL-CMO (the "Banc of America PL-CMO") or a Lehman PL-CMO (the "Lehman PL-CMO") because both securities were still "AAA" rated.

29. With respect to the four PL-CMOs in the Second Frontier Pool on which the firm bid, Geary Securities submitted bids that were between three and five times higher than the next highest bids received by Frontier.

30. Early on the morning of June 5, 2009, Geary Securities submitted a bid on the Lehman PL-CMO at the personal request of McKean. McKean requested the bid to avoid a cumulative loss to the bank on the sale of the four PL-CMOs on which Geary Securities previously bid. The bid on the Lehman PL-CMO submitted by Geary Securities was two and one-half (2½) times higher than the next highest bid received by Frontier.

31. On June 5th, Frontier accepted Geary Securities' bid prices on the five PL-CMOs in the Second Frontier Pool. With the exception of one of the PL-CMOs, the trades were effected and settled on June 5th. The last trade was effected and settled on June 8th.

32. Frontier reported a gain of approximately \$1,000,000 on the sale of the Second Frontier Pool.

B. The Frontier/FDIC Hearing

33. The Frontier/FDIC Hearing commenced as scheduled on Monday, June 1, 2009, after the sale of the PL-CMOs in the First Frontier Pool and before the sale of the PL-CMOs in the Second Frontier Pool.

34. On June 4th, Geary was called as a witness at the Frontier/FDIC hearing on behalf of Frontier. Geary strongly defended his Leveraged Investment Program and Frontier's management of its PL-CMO portfolio. Geary testified that his personal integrity was being challenged by the FDIC and that he welcomed the opportunity to testify to prove that he had been "right".

35. On June 5th, immediately following the sale of the second pool of PL-CMOs, Frontier made a proffer to the hearing officer stating that Frontier no longer held a position in the PL-CMOs in question and that the PL-CMOs had been sold at a profit to the bank. The decision of the hearing officer is pending.

C. Keith Geary's Dilemma

36. At the time Geary Securities submitted its bids on the First Frontier Pool, Geary intended for Geary Securities to hold the PL-CMOs for two to four weeks while the PL-CMOs were pooled to collateralize the mortgage-backed securities to be created by The Geary Companies. Geary anticipated that he would solicit McKean, Frontier and other financial institutions to be potential buyers of the newly created securities.

37. Geary Securities committed to purchase the PL-CMOs from Frontier even though the firm did not have a paying customer as the contra party to the transactions and the firm was unable to fund the purchases itself. After the purchases were effected, Geary learned that Geary Securities would not be able to hold the PL-CMOs pending the completion of the resecuritization process due to capitalization issues that arose for the firm.

38. In order to eliminate the net capital issues he had created for Geary Securities, Geary convinced McKean, individually, and as Chairman of Customer D, a not-for-profit entity, to accept the transfer of all of the PL-CMOs from the firm at the same prices at which Geary Securities purchased the securities from Frontier. The transfer of the PL-CMOs from Geary Securities to the Geary Securities accounts of McKean and Customer D occurred either on June 1, 2009, or June 3, 2009.

39. With two exceptions, each of the PL-CMOs in the First and Second Frontier Pools was valued, as of June 30, 2009, at a price significantly less than the price at which Geary Securities purchased the securities from Frontier, and less than the price at which Geary Securities subsequently sold the securities to McKean and Customer D, or there was no reported value at all.

III. Other Banks' Responses to Regulatory Concerns

A. Bank A

40. In early 2009, the FDIC expressed concerns about the PL-CMOs in Bank A's investment portfolio.

41. In or around May of 2009, the Bank A Board of Directors voted to sell twenty-seven (27) of its PL-CMO holdings. Beginning on June 1, 2009, Bank A solicited bids on the PL-CMOs. The deadline for submission of bids was the close of business on June 5, 2009, for settlement on June 12, 2009. Bank A later extended the deadline for submission of bids to the close of business on June 9, 2009.

42. On June 9, 2009, Geary, on behalf of Geary Securities, responded to Bank A's solicitation for bids. Geary set forth the firm's bids on twenty-two (22) of the PL-CMOs. Geary Securities declined to bid on five of the PL-CMOs because the securities were still "AAA" rated. Although Geary Securities submitted bids in response to Bank A's solicitation, Geary recommended that Bank A not sell any of its PL-CMOs.

43. At its June meeting, the Bank A Board of Directors reconsidered the sale of the PL-CMOs and voted to retain the securities in the bank's investment portfolio due to the potential for significant reductions in the bank's future earnings as a result of the sale.

B. Bank B

44. In light of issues raised by the OCC concerning the PL-CMOs in its investment portfolio, Bank B considered the sale of the PL-CMOs in order to alleviate the regulatory burdens such securities created for the bank.

45. On or about May 28, 2009, Geary recommended that Bank B solicit bids to sell its PL-CMOs during the following week and that Geary Securities be included in the bidding process.

C. Bank C

46. In June of 2008, the Oklahoma State Banking Department expressed concerns about the PL-CMOs in Bank C's investment portfolio. When Bank C considered selling the securities, Geary advised the bank not to sell the PL-CMOs. Ultimately, Bank C concluded that it could not sell the securities without incurring extensive losses.

47. In or around June of 2009, Geary advised Bank C that he had an investment vehicle through which the bank's PL-CMOs could be purchased, to wit: the resecuritization trust.

IV. The CEMP 2009-1 Offering

48. On or about July 7, 2009, Geary began promoting the CEMP 2009-1 Offering, purportedly involving over thirty (30) PL-CMOs, with original face values totaling over \$240 million.

49. On July 16, 2009, CEMP LLC was formed as part of the CEMP 2009-1 Offering.

50. On or about the same date as CEMP LLC was formed, Geary advised Frontier that, on July 24, 2009, Geary Securities would be interested in bidding on the Banc of America PL-CMO that he previously advised Frontier not to sell. Geary similarly advised McKean that Geary Securities would be interested in bidding on the eight PL-CMOs personally owned by McKean and the ten (10) PL-CMOs owned by Customer D. Geary advised Bank A that Geary Securities would reaffirm the bids it submitted on June 9, 2009, on eighteen (18) of the bank's PL-CMOs – the same securities that he had previously advised Bank A not to sell. Geary also advised Bank B that Geary Securities would be interested in bidding on three of the bank's four PL-CMOs. Geary advised Bank C that Geary Securities would be interested in bidding on six of the bank's seven PL-CMOs.

51. Geary further advised that the proposed sales would have a trade date of July 27, 2009, for settlement on July 30, 2009. The scheduled closing date for the CEMP 2009-1 Offering was July 30, 2009.

52. Frontier declined to sell the Banc of America PL-CMO.

53. McKean, individually and on behalf of Customer D, accepted the bid prices submitted by Geary Securities for the eighteen (18) PL-CMOs. The prices were the same prices at which Geary Securities sold the securities to Customer D and McKean in the previous month. Geary Securities did not enter trade tickets for the purchases.

54. On or about July 24, 2009, Geary eliminated eleven (11) of the PL-CMOs owned by Bank A from inclusion in the CEMP 2009-1 Offering. Bank A eventually agreed to sell seven of the PL-CMOs to Geary Securities. Geary Securities did not enter trade tickets for the purchases.

55. Bank B initiated the sale of its four PL-CMOs through bids solicited from seven broker-dealers, including Geary Securities. The deadline for submission of bids was noon on July 24th.

56. Geary, on behalf of Geary Securities, submitted bids on three of Bank B's PL-CMOs that were between two and four times higher than the next highest bids received by Bank B. Four of the broker-dealers receiving the bank's solicitation to bid did not submit bids. One broker-dealer submitted a bid for only one of the PL-CMOs.

57. Bank B agreed to sell the three PL-CMOs at the bid prices submitted by Geary Securities with a trade date of July 27, 2009, for settlement on July 30, 2009. Geary Securities did not enter trade tickets for the purchases.

58. Beginning on July 16, 2009, Bank C solicited bids on the six PL-CMOs about which Geary Securities had inquired. The bank solicited bids from four broker-dealers, including Geary Securities. The deadline for submission of bids was 1:00 p.m. on July 24th. Two broker-dealers declined to bid, one specifically because of the market conditions at the time.

59. Geary, on behalf of Geary Securities, submitted bids to purchase Bank C's PL-CMOs that were between two and one-half (2½) and seven times higher than those of the only other bidding firm.

60. Bank C accepted the bids to purchase submitted by Geary Securities. Geary Securities did not enter trade tickets for the purchases.

61. Ultimately, Geary Securities would offer to buy seven PL-CMOs from Bank A, three PL-CMOs from Bank B, six PL-CMOs from Bank C, eight PL-CMOs from McKean, and ten PL-CMOs from Customer D.

62. At the time of the submission of bids to purchase the PL-CMOs, Geary anticipated receipt of a short-term loan for Geary Securities to finance the purchase. Geary Securities did not receive the anticipated financing.

63. Geary Securities committed to purchase the PL-CMOs from McKean, Customer D, Bank A, Bank B and Bank C without a contra party to the transactions with the ability to fund the purchases and without the ability to fund the purchases itself.

64. On July 28, 2009, Geary advised Bank A, Bank B, Bank C and McKean, individually and as Chairman of Customer D, that the CEMP 2009-1 Offering would not close on July 30th. As a result, Geary directed that the sales of the PL-CMOs be closed in escrow on July 31, 2009. Geary advised each seller that the necessary paperwork, to include a customer agreement and a securities purchase agreement, would be forthcoming by email.

65. Each seller of the PL-CMOs entered into separate customer agreements with CEMP LLC and The Bank of New York Mellon, effective July 31, 2009, (collectively, the "Customer Agreements") whereby each seller authorized The Bank of New York Mellon to hold the PL-CMOs on its behalf until the closing of the CEMP 2009-1 Offering on August 11, 2009.

66. Each seller entered into a separate agreement with CEMP LLC, effective July 31, 2009 (the "Securities Purchase Agreements"), whereby CEMP LLC agreed to purchase:

- (a) ten PL-CMOs from Customer D in exchange for \$57,765,115.30;
- (b) eight PL-CMOs from McKean in exchange for \$37,359,422.13;
- (c) seven PL-CMOs from Bank A in exchange for \$15,585,869.99;
- (d) three PL-CMOs from Bank B in exchange for \$5,985,713.27; and
- (e) six PL-CMOs from Bank C in exchange for \$10,958,392.04.

67. The Securities Purchase Agreements provided that on August 11, 2009, CEMP LLC would sell the PL-CMOs to The Bank of New York Mellon, on behalf of the CEMP Resecuritization Trust 2009-1.

68. Each seller authorized the free delivery of the PL-CMOs to the CEMP 2009-1 Distribution Account at the Bank of New York Mellon as of July 31, 2009.

69. Geary signed each of the Customer Agreements and Securities Purchase Agreements as Chairman of CEMP LLC.

70. The CEMP 2009-1 Offering did not close on August 11, 2009. The closing was postponed to August 18th and then to August 21st.

71. As the closing for the CEMP 2009-1 Offering continued to be postponed, Bank B and Bank C demanded that they be paid the proceeds from the sale of the banks' PL-CMOs.

V. Solicitation of CEMP Notes

72. On more than one occasion in July of 2009, Geary asked whether Frontier and/or Bank A had an interest in purchasing the CEMP Class A-1 Notes. McKean initially advised Geary that the banks would be interested. Geary responded that the structure of the offering was still being finalized and that he would have additional information.

73. On July 21, 2009, Geary actually recommended to McKean that Frontier and/or Bank A purchase the "AAA" rated CEMP Class A-1 Notes.

74. On August 20, 2009, Geary learned that Frontier, Customer D and Bank A would not be purchasers of the CEMP Class A-1 Notes. The closing date for the CEMP 2009-1 Offering was then postponed to September 15th.

75. Ultimately, Geary Securities and Geary failed to honor their offers to purchase the PL-CMOs from McKean, Customer D and Bank A. Without a buyer for the CEMP notes, Geary, on September 14, 2009, notified McKean, Customer D and Bank A that the planned CEMP 2009-1 Offering would not close. The twenty-five (25) PL-CMOs were returned to the Geary Securities accounts of McKean, Customer D and Bank A on September 15, 2009.

76. On or about September 15, 2009, Geary solicited Bank C to purchase any or all of the CEMP Class A-1 Notes at a price of 98. Although the securities had not yet been rated by a rating agency, Geary represented the notes to be "AAA" rated and beyond regulatory scrutiny. Bank C was not interested in purchasing the securities.

77. As of the end of the day on September 22, 2009, there was no buyer for the CEMP Class A-1 Notes or the CEMP Class A-2 Notes. As more fully described below, Geary resorted to manipulative and dishonest tactics to induce the purchase of the CEMP Class A-1 and Class A-2 Notes.

A. CEMP Class A-1 Notes

78. Just after noon on September 23, 2009, Geary advised his team that Bank C "prefer[ed]" not to purchase the Class A-1 Notes and that "this afternoon, I'm finding a Buyer for them and still would like to Close tomorrow the 24th."

79. At about the same time, Geary communicated via a chain of emails with a representative of Mesirow Financial (Mesirow) as to whether that firm had an interest in the CEMP Class A-1 Notes. After providing the information on the final structure and making repeated requests for an indication of interest from Mesirow, Geary asked the Mesirow representative to "guess" as to an acceptable pricing level for the CEMP Class A-1 Notes. The email chain, in pertinent part, follows:

Geary: *"So, Mesirow [sic] (you) have any Interest in CEMP 09-1 A! [sic]?"*

Mesirow: *"We are looking and analyzing"*

Geary: *"and how long does that take for something 100% escrowed in Treas by the A2?"*

Mesirow: *"funny, showing it out to few acct internal, will be back"*

Geary: *"gimme a guess as to your Level"*

Mesirow: *"honestly dontknow [sic], below 100 for sure"*

80. Early on the morning of September 24, 2009, Geary provided Mesirow with another opportunity to purchase the CEMP Class A-1 Notes. Again, Geary's efforts were unsuccessful as Mesirow did not submit an offer to purchase the notes.

81. Geary used the Mesirow September 23rd communication described in paragraph 79 above, to attempt to induce Bank C to purchase the CEMP Class A-1 Notes by falsely representing that there was a dealer interested in the notes at a price in excess of 98. Specifically, Geary advised Bank C as follows: "There is a Dealer interested in the A1's above 98. Just need an A2 Buyer (to hold them for <3 Months)."

82. At mid-day on September 24, 2009, Geary advised his team that Bank C was the buyer of the Class A-1 Notes and Customer E, an individual and the principal shareholder of Bank C, was the buyer of the CEMP Class A-2 Notes. A trade was entered through Geary Securities for the purchase by Bank C of the CEMP Class A-1 Notes in the principal amount of \$20,000,000 for settlement on September 28, 2009. That trade was later canceled.

83. Geary eventually advised Bank C that he did not have a buyer for the CEMP Class A-1 Notes or the CEMP Class A-2 Notes, and that the bank would not be paid for the sale of its PL-CMOs unless the bank purchased the CEMP Class A-1 Notes.

84. On September 25, 2009, Bank C purchased the CEMP Class A-1 Notes in the principal amount of \$20,000,000 at a price of 98 for settlement on September 28, 2009. Bank C consented to the trade based on Geary's representations that the bank would have to hold the CEMP Class A-1 Notes for only a few days and that the notes would then be sold at a profit for Bank C.

B. CEMP Class A-2 Notes

85. Geary convinced Customer E to purchase the CEMP Class A-2 Notes at a price of 65. Geary promoted the purchase as a way for Customer E to assist Bank C in divesting itself of the six PL-CMOs under regulatory scrutiny. Geary also represented to Customer E that he, Customer E, would be out of the CEMP investment by calendar year end with a profit. Geary advised Customer E that the notes would be sold at a price of 75.

86. Geary provided Customer E with a written "Guaranty Agreement" dated September 25, 2009, by which he personally guaranteed that the CEMP Class A-2 Notes would

be sold on behalf of Customer E within ninety (90) days and agreed to fully and promptly pay Customer E approximately \$12,800,000 in connection with said notes if the securities were not sold within ninety (90) days.

87. On September 24, 2009, a trade was entered through Geary Securities on behalf of Customer E for the purchase of the CEMP Class A-2 Notes in the principal amount of \$12,824,811 for settlement on September 28, 2009.

C. Closing of the CEMP Offering

88. On September 28, 2009, DBRS assigned a rating of "AAA" to the CEMP Class A-1 Notes but only with respect to the ultimate payment of principal. The "AAA" rating by DBRS did not apply to the payment of interest.

89. On September 28, 2009, Geary received the final offering document, with exhibits, for distribution to the purchasers of the CEMP Class A-1 Notes and the CEMP Class A-2 Notes.

90. The CEMP 2009-1 Offering closed on September 28, 2009. The offering was made up of the three PL-CMOs purchased from Bank B and the six PL-CMOs purchased from Bank C, totaling \$26,238,500 in original face values.

91. Geary intended to close the CEMP 2009-1 Offering by effecting a net settlement with Bank C, that is, Bank C would only pay the difference between the price of the CEMP Class A-1 Notes and the amount of the proceeds due from the bank's sale of the six PL-CMOs. However, the clearing firm for Geary Securities did not permit a net settlement.

92. In order for CEMP LLC to have the necessary cash flow to pay Bank B and Bank C for their PL-CMOs, the funds for the purchase of the CEMP Class A-1 Notes by Bank C and the CEMP Class A-2 Notes by Customer E were wired to and received by CEMP LLC before the sales proceeds for the PL-CMOs were wired by CEMP LLC to Bank B and Bank C. Bank B and Bank C received their sales proceeds on September 30, 2009.

93. Geary Securities first distributed written disclosures about the CEMP 2009-1 Offering to Bank C and Customer E on September 29, 2009 – after the trade dates of the CEMP notes and after the closing of the CEMP 2009-1 Offering. The private placement memorandum dated September 28, 2009, disclosed, *inter alia*, that the Class A-1 Notes were "AAA" rated *as to principal payment only* and that the "AAA" rating did not address payment of interest (emphasis added).

94. The clearing firm for Geary Securities reflected a market value of zero, as of September 30, 2009, for the Class A-1 Notes and the Class A-2 Notes. Bank C still holds the CEMP Class A-1 Notes and Customer E still holds the CEMP Class A-2 Notes.

VI. Net Capital Deficiencies

95. At all times material hereto, the minimum net capital requirement for Geary Securities was \$250,000.

96. The purchases by Geary Securities of the PL-CMOs in the First Frontier Pool of PL-CMOs caused the firm's net capital to fall below \$250,000. As of May 31, 2009, the net capital for Geary Securities was deficient by tens of millions of dollars.

97. The firm's net capital deficiency was concealed because the PL-CMOs purchased from Frontier did not receive proper accounting treatment on the firm's FOCUS report as of May 31, 2009. The records of Geary Securities reflected the PL-CMOs as a liability in the amount of \$79,385,481.42. While the firm did not include the PL-CMOs as a liability for purposes of the FOCUS report, Geary Securities did include the accrued interest on such securities, in the amount of \$498,007.28, as an asset on the FOCUS report.

98. By failing to disclose its actual position in the PL-CMOs on the FOCUS report as of May 31, 2009, Geary Securities, through Respondent Frager, overstated its net capital position and created the false appearance of its compliance with net capital requirements, thereby enabling the firm to continue to effect securities transactions in ostensible compliance with the net capital rule.

99. The subsequent transfer of the PL-CMOs to McKean and Customer D was not anticipated prior to the sale of the PL-CMOs by Frontier to Geary Securities; however, such transfer became critical to bringing Geary Securities into compliance with the firm's net capital requirements.

100. In addition to the firm's net capital deficiencies in May of 2009, Geary Securities was not in compliance with its minimum net capital requirement at other times during the months that followed. For example, from January 31, 2010 through February 24, 2010, the net capital of Geary Securities fell below the minimum net capital requirement. Yet, Geary Securities continued its operations with the knowledge that the firm was not adequately capitalized.

VII. Geary's Pattern of Deceptive Conduct

A. Excessive Mark-up

101. On Saturday, May 30, 2009, McKean sent an email to approximately twenty (20) other persons including, but not limited to, Geary. In the email, McKean commented on the state of the PL-CMO market and stated his intention to buy a certain Banc of America PL-CMO, different from the Banc of America PL-CMO referenced in paragraphs 28 and 50 above, and unrelated to the CEMP 2009-1 Offering (the "BOAMS"). Specifically, McKean stated, *inter alia*:

Attached is a Security (BOAMS 2007-3 1A2) originally issued by Banc of America in 2007. Various Bloomberg Screens are attached for your review. The seller is asking 44. I declined. Late yesterday the seller offered to sell at 40. I have decided to buy at 40.

\$13,748,585 current par value (face value) is available. The purchase price will be 40% of this amount. I hav (sic) told Capital West we will purchase all of this security. I will purchase \$10,000,000 of the Face Value for a Market Price of \$4,000,000. That leaves \$3,748,585 available for other investors to buy at 40% of the face value. This is offered on a first come basis. It will settle on Wednesday, June 3rd. IF there are not enough buyers for the remaining amount, then I will purchase it. . . .

102. Later on May 30th, Geary forwarded McKean's email to Frager and told Frager that the security referred to by McKean "was Bought (sic) at the end of the day Friday at 37. Tickets will be written Monday morn (sic) with [McKean] taking \$10 Mill and his friends \$3.749 Mill at 40. A nice \$412,440 start for June's Net Income."

103. On Sunday, May 31, 2009, McKean informed Geary Securities, and Keith Geary personally, that: Customer D would buy \$5,000,000 face value of the BOAMS at 40, McKean would buy \$5,000,000 face value of the BOAMS at 40, and "McKean will also buy any of the remainder of these CMO (sic) which is not purchased by others before the deadline."

104. On Monday, June 1, 2009, Geary Securities purchased the BOAMS at a price of 37.

105. On June 1, 2009, Geary Securities, acting in a principal capacity, sold the BOAMS to nine customer accounts, including, but not limited to, the accounts of McKean and Customer D, at a price of 40, for a markup of 8.1 percent.

106. The trade confirmations for sale of the BOAMS to the nine customer accounts did not disclose the 8.1 percent mark-up charged by Geary Securities.

B. Geary's Advice to Mislead Banking Regulators

107. On June 30, 2009, Geary advised Bank A that the bank could include an explanation of the results of the "sale" of its PL-CMOs in the bank's June 30th call report to regulators. This advice was based on Geary's stated assumption that Bank A would accept the previous bids of Geary Securities to purchase the bank's PL-CMOs on July 20th for inclusion in the CEMP 2009-1 Offering scheduled to close on July 21st – an offer to purchase that Geary Securities and Geary eventually made but subsequently failed to honor.

C. False Press Release

108. On or about July 29, 2009, a press release was issued on Capital West Securities, Inc. letterhead announcing the creation of CEMP LLC. The press release falsely stated in pertinent part as follows:

The first re-mic security *was* CEMP 09-1, which was comprised of 28 different [mortgage-backed securities] from six difference sources that totaled \$203 million original face with \$164 million current face.” (Emphasis added.)

109. Although a rating had not yet been assigned, the press release referenced a rating of “AAA” for the majority of the newly created security.

D. CEMP 2009-2 Offering

110. On September 24, 2009, McKean advised Geary that Bank A received an FDIC PCA letter requiring Bank A to reduce the bank’s PL-CMO portfolio. Interests in twelve (12) of the PL-CMOs owned by Bank A were purchased personally by McKean and another Bank A director through Geary Securities.

111. In response, Geary began promoting a second CEMP offering to be collateralized by the PL-CMOs owned by McKean and the other Bank A director. In doing so, Geary falsely told McKean that he had completed a “smaller” CEMP 2009-1 offering with “AAA” rated Class A-1 securities that were sold to the street at par.

112. In making his offer to McKean, Geary referenced Bank C by name and explained the details surrounding Bank C’s sale of its PL-CMOs and Bank C’s and Customer E’s subsequent purchase of the Class A-1 Notes and Class A-2 Notes, respectively.

113. During the latter part of 2009 and early in 2010, Geary repeated his pattern of deceptive and unethical conduct in an attempt to complete a second CEMP offering (the “Second CEMP Offering”) involving the purchase of PL-CMOs from McKean, the other Bank A director, Customer D, Bank B, and Bank C, and the CEMP Class A-1 Notes and CEMP Class A-2 Notes from Bank C and Customer E, respectively.

114. In December 2009, Geary, through Geary Securities, entered into a transaction to purchase a PL-CMO from Mesirow for purposes of resecuritizing it in connection with the Second CEMP Offering.

115. When Geary agreed to a purchase price and settlement date for the purchase of the PL-CMO from Mesirow, Geary knew that neither Geary Securities nor CEMP LLC had the funds to pay for the PL-CMO; however, Geary’s plan was apparently to finagle the closing of the Second CEMP Offering like he unsuccessfully tried to finagle the closing of the CEMP 09-1 Offering by effecting a net settlement, that is, to use the proceeds from the sale of the interests in the Second CEMP Offering to purchase the underlying securities to collateralize the offering.

116. On the settlement date agreed to by Geary Securities and Mesirow, Geary Securities did not accept delivery of the PL-CMO for settlement because it could not pay for the security.

117. Based on Geary's representations that he had a buyer for the bond, Mesirow extended settlement at least three times.

118. On January 20, 2010, when Geary Securities was still unable to settle the purchase from Mesirow because the Class A-1 notes in the Second CEMP Offering had not been sold, Geary tried to persuade Mesirow to purchase the Second CEMP Offering notes. Geary suggested a net settlement with Mesirow in which Mesirow would only pay the difference between the price of the Class A-1 notes and the PL-CMO to be sold to Geary Securities and/or CEMP LLC. Geary knew, however, that the proposed net settlement had failed during the closing of the CEMP 09-01 Offering.

119. Mesirow did not agree to purchase the Class A-1 notes in the Second CEMP Offering, and the Second CEMP Offering never closed. The transaction to purchase the PL-CMO from Mesirow, as part of the Second CEMP Offering, never settled.

To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

Authorities

1. Section 1-401 of the Act provides in pertinent part as follows:

A. It is unlawful for a person to transact business in this state as a broker-dealer, unless the person is registered under this act as a broker-dealer or is exempt from registration as a broker-dealer under subsection B or D of this section.

2. Section 1-402 of the Act provides in pertinent part as follows:

A. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection B of this section.

* * *

D. It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection A of this section or exempt from registration under subsection B of this section.

3. Section 1-501 of the Act provides as follows:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

1. To employ a device, scheme, or artifice to defraud;
2. To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading; or
3. To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

4. Rule 660:11-5-17 of the Rules provides as follows:

(a) General requirement. All broker-dealers registered under the Securities Act shall at all times have and maintain net capital of no less than the highest minimum requirement applicable to each broker-dealer as established by the SEC in 17 CFR 240.15c3-1.

(b) Calculation of "net capital." As used in this subchapter, net capital shall mean the net worth of a broker-dealer calculated according to the formula established by the SEC.

5. Rule 660:11-5-42 of the Rules provides in pertinent part as follows:

(a) Purpose. This rule is intended to set forth the standards of ethical practices for broker-dealers and their agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) Standards.

(1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.

(2) In recommending to a customer the purchase, sale or exchange of any security, the broker-dealer and his agents shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs. Prior to making a recommendation to a customer a broker-dealer shall also make reasonable efforts to obtain information concerning the customer's financial background, tax status, and investment objectives, and such other information used or considered to be reasonable and necessary by such broker-dealer or registered agent in making such recommendation.

* * *

(6) No broker-dealer or agent of a broker-dealer shall make an offer to buy from or sell to any person any security at a stated price unless such broker-dealer or agent is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

* * *

(15) No broker-dealer or agent of a broker-dealer shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device, practice, plan, program, design, or contrivance.

(16) The following standards shall apply to the use of customer funds:

(A) No broker-dealer or person associated with a broker-dealer shall make improper use of a customer's securities or funds.

* * *

(E) No broker-dealer or agent of a broker-dealer shall guarantee a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or agent with or for such customer.

* * *

Conclusions of Law

1. In connection with the offer and/or sale of securities, Respondents Geary Securities and Geary, directly and/or indirectly, made untrue statements of material fact including, but not limited to, the following, in violation of Section 1-501 of the Act:

(a) The sell transactions for the PL-CMOs owned by McKean, Customer D, Bank A, Bank B and Bank C and bid on by Geary Securities would settle on July 30, 2009.

(b) If Bank C purchased the CEMP Class A-1 Notes, it would have to hold them for only a few days and could then sell them at a profit.

(c) If Customer E purchased the CEMP Class A-2 Notes, he would be able to sell them by the end of the calendar year at a price of 75.

2. In connection with the offer and sale of securities, Respondents Geary Securities and Geary, directly and/or indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under they were made, not misleading, in violation of Section 1-501 of the Act. The material omissions include, but are not limited to, the following:

(a) Up until the time that Bank C and Customer E agreed to purchase the CEMP Class A-1 and A-2 notes, respectively, Geary had not found a purchaser for the Class A-1 or A-2 notes and neither Geary Securities nor CEMP LLC had the means to purchase the PL-CMOs from Bank C or Bank B.

(b) The BOAMS sold by Geary Securities to nine customer accounts on June 1, 2009, was sold at a price that was 8.1 percent higher than the price Geary Securities paid to purchase the BOAMS.

(c) The Class A-1 Notes were not "AAA" rated as to payment of interest.

3. Geary Securities failed to maintain net capital of no less than \$250,000, the highest minimum requirement applicable to it as established by the U.S. Securities and Exchange Commission in 17 CFR 240.15c3-1, during the time periods May 28, 2009 through June 1, 2009 and January 31, 2010 through February 24, 2010, in violation of Rule 660:11-5-17.

4. Respondents Geary Securities, Geary and Frager have engaged in unethical practices in the securities business in violation of Rule 660:11-5-42 as follows:

(a) Geary Securities, Geary, and Frager failed to observe high standards of commercial honor and just and equitable principles in the conduct of their business.

(b) Geary Securities and Geary recommended to Customer D the purchase of PL-CMOs without having reasonable grounds for believing that the recommendation was suitable for such customer.

(c) Geary Securities, by and through Geary, made offers to buy securities from McKean, Customer D, Bank A, Bank B, Bank C and Mesirow, at stated prices and on stated dates, but Geary Securities was not prepared to purchase at such prices and under such conditions as were stated at the time of such offers to buy, and in some cases failed to honor the bids.

(d) Geary Securities and Geary induced the purchase of the CEMP Class A-1 and A-2 Notes by Bank C and Customer E, respectively, by means of a manipulative, deceptive or otherwise fraudulent device, practice, plan, program, design, or contrivance.

(e) Geary and Geary Securities guaranteed Bank C and Customer E against loss in securities transactions effected by Geary Securities for Bank C and Customer E.

(f) Geary Securities and Geary sold the BOAMS to nine customer accounts with an excessive mark-up and without disclosing the excessive mark-up to the purchasers.

(g) Geary Securities and Geary caused a press release containing materially false information to be issued on or about July 29, 2009.

(h) Geary Securities, Geary, and Frager concealed Geary Securities' net capital deficiency by not disclosing the firm's position in the PL-CMOs on the firm's FOCUS report as of May 31, 2009.

(i) Geary Securities failed to cease its operations when its net capital fell below the minimum net capital requirement in May 2009 and February 2010.

(j) Geary Securities and Geary failed to respect the privacy of a customer.

5. CEMP LLC transacted business in this state as a broker-dealer without benefit of registration under the Act, in violation of Section 1-401 of the Act.

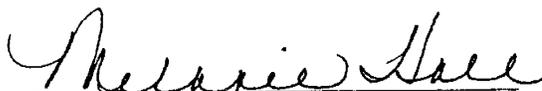
6. CEMP LLC employed or associated with an unregistered agent(s) who transacted business in this state on its behalf, in violation of Section 1-402 of the Act.

To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

WHEREFORE, it is recommended that the Administrator issue an order imposing a censure and a civil penalty in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) against Geary Securities; barring Respondents Geary and Frager from being registered in any capacity under the Act or any successor to the Act; ordering CEMP LLC to cease and desist the offer and/or sale of any security in violation of the Act; and imposing such other sanctions as deemed appropriate and authorized by law.

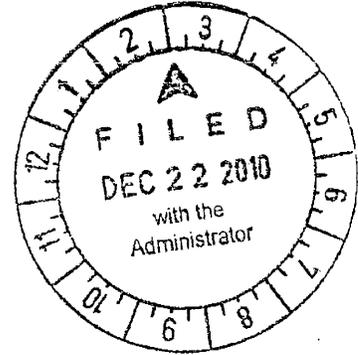
Dated this 22nd day of September, 2010.

Respectfully submitted,

A handwritten signature in cursive script that reads "Melanie Hall". The signature is written in dark ink and is positioned above the typed name.

Melanie Hall
Director of Enforcement
Terra Shamas Bonnell
Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
Telephone: (405) 280-7700
Facsimile: (405) 280-7742

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
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.

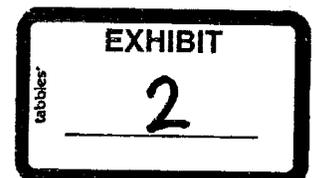
File No. 09-141

DEPARTMENT'S PRELIMINARY LIST OF WITNESSES AND EXHIBITS

The Oklahoma Department of Securities ("Department") submits this preliminary list of witnesses and exhibits in the above-styled matter in compliance with the *Agreed Scheduling Order* issued on December 14, 2010. Any reference herein to "Geary Securities" refers to Geary Securities, Inc., and/or Capital West Securities, Inc. Any reference herein to "PL-CMOs" refers to private label collateralized mortgage obligations. The Department expressly reserves the right to identify and list additional witnesses on its Final Witness List and to exchange additional documents and exhibits pursuant to the *Agreed Scheduling Order*.

Witness List

1. Keith Geary, c/o Joe M. Hampton, Esq., Corbyn Hampton, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, OK 73102, (405) 239-7055, is expected to testify regarding the allegations contained in the *Enforcement Division Recommendation* filed in this matter.
2. Norman Frager, c/o Donald A. Pape, Phillips Murrah P.C., 401 West Main, Suite 440, Norman, OK 73069, (405) 364-3346, is expected to testify regarding Geary Securities' net capital requirement, Geary Securities' net capital position at relevant times and the calculation thereof, Geary Securities' FOCUS report as of May 31, 2009, and Geary Securities' Notices to FINRA regarding net capital submitted in February 2009.
3. Chad Goodman, c/o Joe M. Hampton, Esq., Corbyn Hampton, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, OK 73102, (405) 239-7055, is expected to testify regarding the transactions at issue in the *Enforcement Division Recommendation* and communications relating to such transactions.
4. Mike Shelley, c/o Karl L. Marquardt, Esq., Morgan Stanley Smith Barney, 1221 Ave of the Americas, 35th Floor, New York, NY 10020, (212) 296-2677, is expected to testify



regarding the transactions at issue in the *Enforcement Division Recommendation* and representations made in connection with such transactions.

5. David Paulukaitis (Expert Witness), Mainstay Capital Markets Consultants, Inc., 1040 Crown Pointe Parkway, Suite 1070, Atlanta, GA 30338, (770) 352-0120, is expected to provide expert testimony regarding the Rules of the Financial Industry Regulatory Authority ("FINRA") and the transactions at issue in the *Enforcement Division Recommendation*.

6. John Shelley, c/o John J. Schirger, Miller Schirger LLC, 800 West 47th Street, Suite 630, Kansas City, MO 64112, (816) 561-6504, is expected to testify regarding Bank of Union's transactions in PL-CMOs and CEMP Resecuritization Trust 2009-1, Class A-1 notes, communications relating to such transactions, and communications with banking regulators.

7. Mike Braun, c/o John J. Schirger, Miller Schirger LLC, 800 West 47th Street, Suite 630, Kansas City, MO 64112, (816) 561-6504, is expected to testify regarding Bank of Union's transactions in PL-CMOs and CEMP Resecuritization Trust 2009-1, Class A-1 notes, communications relating to such transactions, and communications with banking regulators.

8. Timothy Headington, c/o John J. Schirger, Miller Schirger LLC, 800 West 47th Street, Suite 630, Kansas City, MO 64112, (816) 561-6504, is expected to testify regarding Bank of Union's transactions in CEMP Resecuritization Trust 2009-1, Class A-1 notes, his transactions in CEMP Resecuritization Trust 2009-1, Class A-2 notes, communications relating to such transactions, and the Guaranty Agreement by Keith Geary.

9. Chris Martin, c/o John J. Schirger, Miller Schirger LLC, 800 West 47th Street, Suite 630, Kansas City, MO 64112, (816) 561-6504, is expected to testify regarding Timothy Headington's transactions in CEMP Resecuritization Trust 2009-1, Class A-2 notes, communications relating to such transactions, and the Guaranty Agreement by Keith Geary.

10. Debi Gordon, c/o William C. McMurrey, Bracewell & Giuliani LLP, 1445 Ross Avenue, Suite 3800, Dallas, TX 75202-2711, (214) 758-1032, is expected to testify regarding Washita State Bank's transactions in PL-CMOs, communications with Geary Securities and representatives thereof, and communications with banking regulators.

11. Bill Haycraft, c/o William C. McMurrey, Bracewell & Giuliani LLP, 1445 Ross Avenue, Suite 3800, Dallas, TX 75202-2711, (214) 758-1032, is expected to testify regarding Frontier State Bank's transactions in PL-CMOs, communications relating to such transactions, communications relating to the offering of the CEMP Resecuritization Trust 2009-1, Class A-1 and Class A-2 notes, and communications with banking regulators.

12. Joseph D. McKean Jr., c/o William C. McMurrey, Bracewell & Giuliani LLP, 1445 Ross Avenue, Suite 3800, Dallas, TX 75202-2711, (214) 758-1032, is expected to testify regarding Frontier State Bank's and The Eagle Sky Foundation, Inc.'s transactions in PL-CMOs, communications relating to such transactions, and communications relating to the offering of the CEMP Resecuritization Trust 2009-1, Class A-1 and Class A-2 notes.

13. Denise Hintz, c/o Joe M. Hampton, Esq., Corbyn Hampton, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, OK 73102, (405) 239-7055, is expected to testify regarding the calculation of Geary Securities' net capital position at relevant times and communications relating to such calculations.

14. Althea Roberts, c/o Joe M. Hampton, Esq., Corbyn Hampton, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, OK 73102, (405) 239-7055, is expected to testify regarding the transactions at issue in the *Enforcement Division Recommendation*, Geary Securities' net capital position at relevant times, and Geary Securities' operations.

15. Karen Coker, c/o Joe M. Hampton, Esq., Corbyn Hampton, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, OK 73102, (405) 239-7055, is expected to testify regarding the transactions at issue in the *Enforcement Division Recommendation* and Geary Securities' operations.

16. Karen Hooley, c/o Paul Foster, Esq., P.O. Box 720550, Norman, OK 73070, (405) 329-9101, is expected to testify regarding Yukon National Bank's transactions in PL-CMOs and communications relating to such transactions.

17. James Vlogianitis, c/o Jeffrey M. Levine, Esq., Mesirov Financial, 353 North Clark Street, Chicago, IL 60654, (312) 595-6072, is expected to testify regarding transactions with or involving Geary Securities and communications with Geary Securities or representatives thereof.

18. Doyle L. Jones, or another representative of the Oklahoma State Banking Department, c/o Dudley Gilbert, Esq., 2900 North Lincoln Boulevard, Oklahoma City, OK 73105, (405) 521-2782, is expected to testify regarding communications concerning the transactions at issue in the *Enforcement Division Recommendation* and banking regulator concerns about such transactions.

19. One or more representatives, currently unidentified, of Pershing, LLC, are expected to testify regarding certain transactions in PL-CMOs conducted by or through Geary Securities and communications with representatives of Geary Securities relating to such transactions.

20. Carol Gruis, Director of Licensing and Examinations, Oklahoma Department of Securities, c/o Terra Bonnell or Melanie Hall, 120 North Robinson Avenue, Suite 860, Oklahoma City, OK 73102, (405) 280-7700, is expected to testify about the registrations and CRD records of Respondents; the Department's requests for information from Respondents; documents Respondents provided to the Department; the Rules of the Financial Industry Regulatory Authority ("FINRA"); the Oklahoma Uniform Securities Act of 2004; and the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities.

21. Brenda London, Paralegal, Oklahoma Department of Securities, c/o Terra Bonnell or Melanie Hall, 120 North Robinson Avenue, Suite 860, Oklahoma City, OK 73102, (405) 280-

7700, is expected to testify in her capacity as the custodian of certain records of the Department, if necessary to establish admissibility.

22. All witnesses needed to rebut the testimony of a witness or a document or exhibit identified on Respondents' preliminary or final witness lists or exhibit lists or offered at hearing by Respondents.

23. All witnesses identified on Respondents' preliminary or final witness lists, or called at hearing by Respondents, and to whom the Department asserts no objection.

Document and Exhibit List

1. All written correspondence between the Department and Respondents or representatives thereof

2. All documents provided by Geary Securities, or a representative thereof, to the Department in connection with the Department's investigation into the activities of CEMP LLC and Geary Securities and representatives thereof including, but not limited to, the following:

- a. emails and other electronic communications and their attachments,
- b. trade confirmations,
- c. trade tickets, and
- d. brokerage account statements

3. The registration and CRD records for Respondents

4. The registration and IARD records for Geary Advisors, LLC

5. Certificate of Incorporation for The Eagle Sky Foundation, Inc.

6. State of Missouri Certificate of Authority for Foreign Nonprofit and Certificate of Good Standing for The Eagle Sky Foundation, Inc.

7. The Eagle Sky Foundation, Inc. Resolution

8. Limited Liability Company Agreement of CEMP LLC

9. Confidential Private Placement Memorandum for Mortgage Resecuritization Notes, Series 2009-1, issued by CEMP Resecuritization Trust 2009-1

10. Letter, dated September 28, 2009, from DBRS to CEMP LLC and Geary Securities

11. Geary Securities Brokerage Account Statements for the accounts of Joseph D. McKean Jr., The Eagle Sky Foundation, Inc., Frontier State Bank, Washita State Bank, Yukon National Bank, The Bank of Union, and Timothy Headington

12. Trade confirmations and tickets for transactions in PL-CMOs by Frontier State Bank, Washita State Bank, Yukon National Bank, The Bank of Union, Joseph D. McKean Jr., and The Eagle Sky Foundation, Inc.

13. Trade confirmations and tickets for transactions in CEMP Resecuritization Trust 2009-1, Class A-1 and Class A-2 notes

14. Trade confirmations and tickets for transactions in Banc of America PL-CMO, Cusip 05954CAB4, on June 1, 2009

15. Bloomberg trade tickets relating to transactions between Geary Securities and Frontier State Bank on June 5, 2009

16. Securities Trading Activity Report dated June 29, 2010, relating to Banc of America PL-CMO, Cusip 05954CAB4

17. TCMS Audit Log Reports

18. UMB Bank Customer Confirmations/Safekeeping Receipts for Frontier State Bank

19. Spreadsheets relating to PL-CMOs with cusip numbers 12638DAE6; 17314BAB6; 17313VAB3; 52522UAB9; and 161636AF2

20. Spreadsheets titled, "Historical Trades," for Customer "240141"

21. Customer Agreements including, but not limited to, their amendments and restatements, among CEMP LLC, The Bank of New York Mellon, and Joseph D. McKean Jr., The Eagle Sky Foundation, Inc., Washita State Bank, The Bank of Union, and/or Yukon National Bank

22. Securities Purchase Agreements including, but not limited to, their amendments and restatements, between CEMP LLC and The Eagle Sky Foundation, Inc., Joseph D. McKean Jr., Washita State Bank, The Bank of Union, and/or Yukon National Bank

23. Correspondence between FINRA and Geary Securities, and representatives thereof

24. Geary Securities' Focus Report for the month ending May 31, 2009, and supporting documentation

25. Geary Securities' Notices to FINRA regarding net capital, submitted in February 2009

26. Press Release issued by Geary Securities on or about July 29, 2009

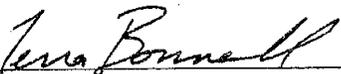
27. Guaranty Agreement, dated September 25, 2009, between Keith Geary and Timothy Headington
28. FIL-20-2009 issued by the FDIC
29. Pleadings and orders filed in the matter of Frontier State Bank before the FDIC (FDIC-07-288b) including, but not limited to, the Amended Notice of Charges and of Hearing
30. Affidavit of Keith D. Geary, dated January 22, 2010
31. Transcript of the testimony of Keith D. Geary in the matter of Frontier State Bank before the FDIC (FDIC-07-288b)
32. Transcript of the proffer by counsel for Frontier State Bank in the matter of Frontier State Bank before the FDIC (FDIC-07-288b)
33. Prompt Correction Action letter, dated May 1, 2009, from FDIC to Frontier State Bank
34. Letter dated September 4, 2007, from Keith Geary, Chad Goodman, Zack Robinson, and Katrina Wright to "President/CFO"
35. Copy of presentation titled, "Leverage Strategies In Community Banks"
36. News article titled, "UPDATE—Expert Witness: Frontier State Bank Right in Challenging FDIC in Rare Showdown"
37. Minutes from the Frontier State Bank Board of Directors meeting on May 27, 2009
38. Account statement, dated May 31, 2009, for the Frontier State Bank account, ending in 1355, at UMB Bank, N.A.
39. Document titled "Frontier State Bank" that provides financial information for the bank as of June 1, 2009 and June 30, 2009 (Projected)
40. Frontier State Bank document titled, "Items Out for Bids," dated May 26, 2009
41. Frontier State Bank's bid solicitation for June 1, 2009
42. Email dated May 26, 2009, between Bill Haycraft and Lukus Collins
43. Emails dated May 27, 2009, between Keith Geary and Bill Haycraft

44. Emails dated May 27, 2009 – June 7, 2009, among Bill Haycraft, Roy Moore, and Lukus Collins
45. Emails dated May 27, 2009, among Sarah Graves, Bill Haycraft, and Lukus Collins
46. Emails dated May 30, 2009 – June 7, 2009, between Bill Haycraft and Jason Weiler
47. Emails dated May 26-27, 2009, among Bill Haycraft, Jim Bishop, and Lukus Collins
48. Emails dated May 28, 2009 – June 4, 2009, between Bill Haycraft and Curtis Whitaker
49. Emails dated May 26-30, 2009, among Bill Haycraft, Ward Collier, and Lukus Collins
50. Email dated May 26, 2009, among Bill Haycraft, “jmonroe,” and Lukus Collins
51. Emails dated June 1-7, 2009, between Bill Haycraft and David Wallace
52. Emails dated June 1-2, 2009, between Bill Haycraft and Jimmy Edwards
53. Emails dated June 1-5, 2009, between Bill Haycraft and Keith Geary
54. Email dated June 5, 2009, between Joseph D. McKean Jr. and Bill Haycraft
55. Emails dated July 16-24, 2009, among Keith Geary, John Shelley, and Mike Braun
56. Emails dated July 16-27, 2009, between Mike Braun and Craig Stanley
57. Emails dated July 16-27, 2009, between Mike Braun and Walter H. Johnson
58. Email dated July 17, 2009, between Mike Braun and Chad Goodman
59. Emails dated July 21, 2009, between Mike Braun and Ted Kalb
60. Emails dated September 29-30, 2009, among Mike Braun, Keith Geary, and Chad Goodman
61. Emails dated February 19-20, 2009, between Keith Geary and Karen Hooley
62. Email dated May 28, 2009, between Keith Geary and Karen Hooley

63. Emails dated July 16, 2009 – September 30, 2009, among Karen Hooley, Keith Geary, Chad Goodman, Paul Foster, and others
64. Emails dated July 23-24, 2009, among Karen Hooley, David Hudson, and Bill Strecker
65. Emails dated July 23-24, 2009, between Karen Hooley and Robert Schuyler
66. Emails dated July 23, 2009, between Karen Hooley and Stephen Zanone
67. Emails dated July 23-24, 2009, between Karen Hooley and Paul Dill
68. Emails dated July 23, 2009, between Karen Hooley and Christopher Cox
69. Email dated July 24, 2009, between Julie E. Lee and Karen Hooley
70. Emails dated July 23-24, 2009, between Greg Bernard and Karen Hooley
71. Email dated July 31, 2009, between Karen Hooley and Pamela A. Burroughs
72. Emails dated May 30, 2009, among Joseph D. McKean Jr., Keith Geary and others
73. Email dated May 30, 2009, between Keith Geary and Norman Frager
74. Emails or other electronic communications between Geary Securities and Mesirow Financial, and representatives thereof
75. Copy of letters dated August 3, 2009, from John Shelley to Craig Stanley, "Wally Johnson," Ted Kalb, and Chad Goodman
76. Letter, dated July 31, 2009, from Joseph D. McKean Jr. to Chad Goodman instructing the free delivery of certain securities from the brokerage accounts of Joseph D. McKean Jr., and The Eagle Sky Foundation, Inc.
77. The Bank of Union's instruction, dated July 30, 2009, to free deliver securities to Bank of New York, and attachment
78. The Bank of New York Mellon's Delivery Instructions for CEMP Resecuritization Trust 2009-1
79. Document titled, "Private Labels Sold June 5, 2009"
80. All documents received or provided by the Department in connection with ongoing discovery relating to this matter

81. All pleadings filed in this matter
82. The deposition transcript(s) of any witness who becomes unavailable
83. Any evidence needed to impeach a witness including, but not limited to, deposition transcripts
84. Any evidence needed to refresh a witness's memory
85. All exhibits listed or offered by a Respondent to which the Department asserts no objection
86. The Oklahoma Uniform Securities Act of 2004, Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2009), and the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities
87. FINRA rules including, but not limited to, interpretive memorandums
88. Demonstrative aids that have not yet been created
89. Summaries of evidence that have not yet been created

Dated this 22nd day of December, 2010.



Melanie Hall
Director of Enforcement
Terra Shamas Bonnell
Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
Telephone: 405.280.7700
Facsimile: 405.280.7742

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of December, 2010, a true and correct copy of the above and foregoing *Department's Preliminary List of Witnesses and Exhibits* was emailed and mailed by first-class mail with postage prepaid thereon, to the following:

Mr. Bruce R. Kohl
201 Camino del Norte
Santa Fe, NM 87501
Bruce.kohl09@gmail.com

Hearing Officer

Joe M. Hampton, Esq.
Corbyn Hampton, PLLC
211 North Robinson, Suite 1910
Oklahoma City, OK 73102
JHampton@Corbynhampton.com

*Attorney for Respondents Geary Securities, Inc., Keith D. Geary,
and CEMP, LLC*

Donald A. Pape, Esq.
Phillips Murrah P.C.
401 W. Main, Suite 440
Norman, OK 73069
don@dapape.com

and

Susan E. Bryant
Bryant Law
P.O. Box 596
Camden, ME 04843
sbryant@bryantlawgroup.com

Attorneys for Respondent Norman Frager


Terra Shamas Bonnell

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

DEPOSITION SUBPOENA

TO: Timothy Headington
3515 Crescent Avenue
Dallas, TX 75205

Pursuant to the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended on July 1, 2007) (the "Rules"), and specifically Rules 660:2-9-3(b) and 660:2-9-4, you are hereby commanded to appear at the offices of Henjum Goucher Reporting at 2501 Oak Lawn Avenue #600, Dallas, Texas 75219 on **March 28, 2011 at 9 a.m.**, to testify as a witness in a deposition noticed by Geary Securities, Inc., in the above-referenced matter. The deposition may be recorded by audio/visual means.

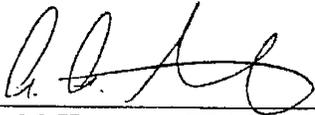
In accordance with Rule 660:2-9-4, Geary Securities has submitted this Subpoena in writing to the Hearing Officer for approval of issuance, and the Hearing Officer has approved issuance of same. Respondent Geary Securities, Inc. may be contacted at the address and phone number listed below for its counsel of record, CORBYN HAMPTON, PLLC. Hereof fail not under penalty of law.

Issued this 11th day of February, 2011.

By: 
Bruce R. Kohl, Hearing Officer



Prepared by:



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

apierce@corbynhampton.com

astanford@corbynhampton.com

ATTORNEYS FOR RESPONDENTS

GEARY SECURITIES, INC., KEITH D. GEARY,

AND CEMP, LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 18 2011, a copy of the foregoing document was served on the following by certified mail, return receipt requested, by restricted delivery:

Timothy Headington
3515 Crescent Avenue
Dallas, TX 75205

and a copy of the foregoing document was sent to the following via email:

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



Joe M. Hampton

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

Respondents.

ODS File No. 09-141

DEPOSITION SUBPOENA

TO: John Shelley
2000 South Country Club Rd.
El Reno, OK 73036

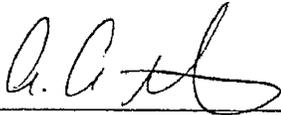
Pursuant to the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended on July 1, 2007) (the "Rules"), and specifically Rules 660:2-9-3(b) and 660:2-9-4, you are hereby commanded to appear at the offices of counsel for Geary Securities, Inc., CORBYN HAMPTON, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, Oklahoma 73102 on **March 30, 2011 at 9 a.m.**, to testify as a witness in a deposition noticed by Geary Securities, Inc., in the above-referenced matter. The deposition may be recorded by audio/visual means.

In accordance with Rule 660:2-9-4, Geary Securities has submitted this Subpoena in writing to the Hearing Officer for approval of issuance, and the Hearing Officer has approved issuance of same. Respondent Geary Securities, Inc. may be contacted at the address and phone number listed below for its counsel of record, CORBYN HAMPTON, PLLC. Hereof fail not under penalty of law.

Issued this 11th day of February, 2011.

By: 
Bruce R. Kohl, Hearing Officer

Prepared by:



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
apierce@corbynhampton.com
astanford@corbynhampton.com
ATTORNEYS FOR RESPONDENTS
GEARY SECURITIES, INC., KEITH D. GEARY,
AND CEMP, LLC

CERTIFICATE OF SERVICE

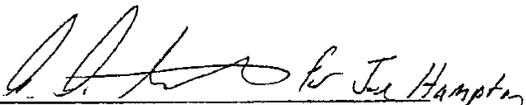
I hereby certify that on February 18, 2011, a copy of the foregoing document was served on the following by certified mail, return receipt requested, by restricted delivery:

John Shelley
2000 South Country Club Rd.
El Reno, OK 73036

and a copy of the foregoing document was sent to the following via email:

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



Joe M. Hampton

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

DEPOSITION SUBPOENA

TO: Mike Braun
2000 South Country Club Rd.
El Reno, OK 73036

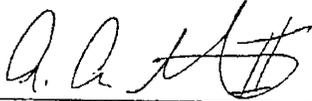
Pursuant to the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended on July 1, 2007) (the "Rules"), and specifically Rules 660:2-9-3(b) and 660:2-9-4, you are hereby commanded to appear at the offices of counsel for Geary Securities, Inc., CORBYN HAMPTON, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, Oklahoma 73102 on **March 31, 2011 at 9 a.m.**, to testify as a witness in a deposition noticed by Geary Securities, Inc., in the above-referenced matter. The deposition may be recorded by audio/visual means.

In accordance with Rule 660:2-9-4, Geary Securities has submitted this Subpoena in writing to the Hearing Officer for approval of issuance, and the Hearing Officer has approved issuance of same. Respondent Geary Securities, Inc. may be contacted at the address and phone number listed below for its counsel of record, CORBYN HAMPTON, PLLC. Hereof fail not under penalty of law.

Issued this 11th day of February, 2011.

By: 
Bruce R. Kohl, Hearing Officer

Prepared by:



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
apierce@corbynhampton.com
astanford@corbynhampton.com
ATTORNEYS FOR RESPONDENTS
GEARY SECURITIES, INC., KEITH D. GEARY,
AND CEMP, LLC

CERTIFICATE OF SERVICE

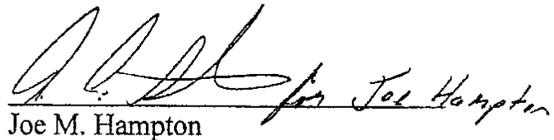
I hereby certify that on February 18 2011, a copy of the foregoing document was served on the following by certified mail, return receipt requested, by restricted delivery:

Mike Braun
2000 South Country Club Rd.
El Reno, OK 73036

and a copy of the foregoing document was sent to the following via email:

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



Joe M. Hampton

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

Respondents.

ODS File No. 09-141

SUBPOENA DUCES TECUM

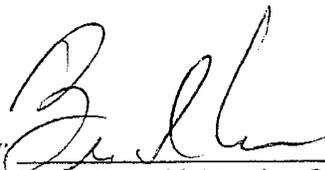
TO: The Bank of Union
Records Custodian
PO Box 1010
2000 South Country Club
El Reno, OK 73036

Pursuant to the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended on July 1, 2007) (the "Rules"), and specifically Rule 660:2-9-4, you are hereby commanded to produce and permit inspection and copying of all documents and tangible items in your possession, custody or control, described on Exhibit A attached hereto. Said inspection and copying will take place at the offices of counsel for Geary Securities Inc., CORBYN HAMPTON, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, Oklahoma 73102 on February 25, 2011 at 9 a.m.

In accordance with Rule 660:2-9-4, Geary Securities has submitted this Subpoena in writing to the Hearing Officer for approval of issuance, and the Hearing Officer has approved issuance of same. Respondent Geary Securities, Inc. may be contacted at the

address and phone number listed below for its counsel of record, CORBYN HAMPTON,
PLLC. Hereof fail not under penalty of law.

Issued this 11th day of February 2011.

By: 
Bruce R. Kohl, Hearing Officer

Prepared by:


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
apierce@corbynhampton.com
astanford@corbynhampton.com

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

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2011, a copy of the foregoing document was served on the following by certified mail, return receipt requested, by restricted delivery:

The Bank of Union
Records Custodian
PO Box 1010
2000 South Country Club
El Reno, OK 73036

And a copy of the foregoing document was sent to the following via email:

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


Joe M. Hampton

EXHIBIT A

DEFINITIONS:

The following definitions apply and govern the following requests:

“You” or “Your” means The Bank of Union and its representatives, agents, servants, and employees (including, but not limited to Mike Braun, John Shelley and Timothy Headington).

Whenever a noun appears, it shall be construed either to be singular or plural in order to bring within the scope of the following requests any information that may be otherwise construed to be outside their scope.

“And” as well as “or” shall be construed either disjunctively or conjunctively in order to bring within the scope of the following requests any information that might otherwise be construed to be outside their scope.

“Document” means a written, printed, typed or graphic matter, electronic facsimile, computer storage device, or any other media, of any kind or description, in its entirety, including records and other data compilations from which information can be obtained or translated (if necessary) through detection devices into usable form, and further including any addenda, supplements, amendments, revisions, exhibits and appendices thereto, in their original form (or copies thereof where originals are unavailable), together with any copies thereof bearing notations, memoranda or other written information not on the original. The term "document" means any tangible thing, recording, or reproduction made in any manner, any visual or auditory data in your possession, custody, or control including without limiting the generality of its meaning, correspondence, electronic mail (“e-mail”), instant messages, text messages, memoranda,

pleadings, briefs, transcripts, photographs, journals, diaries, calendars, stenographic or handwritten notes, studies, evaluations, analyses, reports, accounting records, reviews, working papers, books, charts, telegrams, pamphlets, pictures, video or audit tapes, voice recordings, computer tapes, printout or cards, microfilming, microfiche, and any papers on which words and numbers have been written, printed, typed, or otherwise affixed, and shall mean a copy where the original is not in your possession, custody, or control and shall mean every copy of every document where any such copy is not an identical copy of the original. Designated documents shall be taken to include all attachments and enclosures.

The term "Communication" when used in the following requests includes all forms of communication, discussion and discourse – whether written, oral, electronic or otherwise.

"GSI" shall refer to Geary Securities, Inc., formerly known as Capital West Securities, Inc.

"Geary" shall refer to Keith D. Geary.

"CEMP" shall refer to CEMP, LLC.

"BOU" shall refer to the Bank of Union.

REQUESTS:

1. All documents that refer, relate to or in any way reference any form of communication between you and GSI, Geary or CEMP.
2. All documents that refer, relate to or in any way reference any form of communication by any officer, director, shareholder, employee or representative of BOU concerning GSI, Geary or CEMP.

3. All documents that refer, relate to or in any way reference any form of communication between any officer, director, shareholder, employee or representative of BOU and any representative, employee, investigator, or attorney for any regulatory or investigatory body or authority (including, but not limited to, the Federal Deposit Insurance Corporation, Oklahoma State Banking Department, Oklahoma State Department of Securities, or the Office of the Comptroller of the Currency) concerning GSI, Geary or CEMP.
4. All documents that refer, relate to or in any way reference any form of communication related to BOU's purchase or sale, or BOU's consideration of the potential purchase or sale, of any securities through GSI, Geary or CEMP.
5. All documents that refer, relate to or in any way reference any form of communication concerning Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or Class A-2, issued by the CEMP Resecuritization Trust 2009-1.
6. All documents that refer, relate to or in any way reference the performance of any security BOU has purchased or sold through GSI, Geary, or CEMP.
7. All writings, communications, statements, reports or filings submitted by you to any regulatory or investigatory body or authority (including, but not limited to, the Federal Deposit Insurance Corporation, Oklahoma State Banking Department, Oklahoma State Department of Securities, or the Office of the Comptroller of the Currency) that refer, relate to, or reference any securities purchased or sold by BOU through GSI, Geary or CEMP.

8. All documents including, but not limited to, minutes, summaries, recordings, notes and agendas of BOU's Board of Directors that refer, relate to or in any way concern GSI, Geary, CEMP, or any security purchased or sold by BOU through GSI, Geary or CEMP (including, but not limited to, Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or Class A-2, issued by the CEMP Resecuritization Trust 2009-1).
9. All documents including, but not limited to, minutes, summaries, recordings, notes and agendas of any BOU committee (including, but not limited to, executive, investment, loan, credit or risk committees) that refer, relate to or in any way concern GSI, Geary, CEMP, or any security purchased or sold by BOU through GSI, Geary or CEMP (including, but not limited to, Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or Class A-2, issued by the CEMP Resecuritization Trust 2009-1).

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

Respondents.

ODS File No. 09-141

SUBPOENA DUCES TECUM

TO: Timothy Headington
3515 Crescent Avenue
Dallas, TX 75205

Pursuant to the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended on July 1, 2007) (the "Rules"), and specifically Rule 660:2-9-4, you are hereby commanded to produce and permit inspection and copying of all documents and tangible items in your possession, custody or control, described on Exhibit A attached hereto. Said inspection and copying will take place at the offices of counsel for Geary Securities, Inc., CORBYN HAMPTON, PLLC, 211 North Robinson, Suite 1910, Oklahoma City, Oklahoma 73102 on February 25, 2011 at 9 a.m.

In accordance with Rule 660:2-9-4, Geary Securities has submitted this Subpoena in writing to the Hearing Officer for approval of issuance, and the Hearing Officer has approved issuance of same. Respondent Geary Securities, Inc. may be contacted at the address and phone number listed below for its counsel of record, CORBYN HAMPTON, PLLC. Hereof fail not under penalty of law.

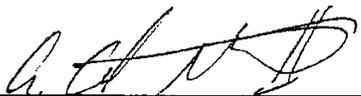
Issued this 11th day of February 2011.

By:



Bruce R. Kohl, Hearing Officer

Prepared by:



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
Email: jhampton@corbynhampton.com
apierce@corbynhampton.com
astanford@corbynhampton.com

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

CERTIFICATE OF SERVICE

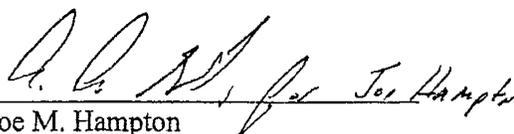
I hereby certify that on February 18, 2011, a copy of the foregoing document was served on the following by certified mail, return receipt requested, by restricted delivery:

Timothy Headington
3515 Crescent Avenue
Dallas, TX 75205

and a copy of the foregoing document was sent to the following via email:

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



Joe M. Hampton

EXHIBIT A

DEFINITIONS:

The following definitions apply and govern the following requests:

“You” or “Your” means Timothy Headington and his representatives, agents, servants, and employees (including, but not limited to, Chris Martin).

Whenever a noun appears, it shall be construed either to be singular or plural in order to bring within the scope of the following requests any information that may be otherwise construed to be outside their scope.

“And” as well as “or” shall be construed either disjunctively or conjunctively in order to bring within the scope of the following requests any information that might otherwise be construed to be outside their scope.

“Document” means a written, printed, typed or graphic matter, electronic facsimile, computer storage device, or any other media, of any kind or description, in its entirety, including records and other data compilations from which information can be obtained or translated (if necessary) through detection devices into usable form, and further including any addenda, supplements, amendments, revisions, exhibits and appendices thereto, in their original form (or copies thereof where originals are unavailable), together with any copies thereof bearing notations, memoranda or other written information not on the original. The term "document" means any tangible thing, recording, or reproduction made in any manner, any visual or auditory data in your possession, custody, or control including without limiting the generality of its meaning, correspondence, electronic mail (“e-mail”), instant messages, text messages, memoranda, pleadings, briefs, transcripts, photographs, journals, diaries, calendars, stenographic or

handwritten notes, studies, evaluations, analyses, reports, accounting records, reviews, working papers, books, charts, telegrams, pamphlets, pictures, video or audit tapes, voice recordings, computer tapes, printout or cards, microfilming, microfiche, and any papers on which words and numbers have been written, printed, typed, or otherwise affixed, and shall mean a copy where the original is not in your possession, custody, or control and shall mean every copy of every document where any such copy is not an identical copy of the original. Designated documents shall be taken to include all attachments and enclosures.

The term "Communication" when used in the following requests includes all forms of communication, discussion and discourse -- whether written, oral, electronic or otherwise.

"GSI" shall refer to Geary Securities, Inc., formerly known as Capital West Securities, Inc.

"Geary" shall refer to Keith D. Geary.

"CEMP" shall refer to CEMP, LLC.

REQUESTS:

1. All documents that refer, relate to or in any way reference any form of communication between you and GSI, Geary or CEMP.
2. All documents that refer, relate to or in any way reference any form of communication between you and any officer, director, shareholder, employee or representative of the Bank of Union concerning GSI, Geary or CEMP.
3. All documents that refer, relate to or in any way reference any form of communication between you and any representative, employee, investigator,

or attorney for the Oklahoma State Department of Securities, the Oklahoma State Banking Department, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency concerning GSI, Geary or CEMP.

4. All documents that refer, relate to or in any way reference any form of communication related to your purchase or sale, or your consideration of the potential purchase or sale, of any securities through GSI, Geary or CEMP.
5. All documents that refer, relate to or in any way reference any form of communication concerning Mortgage Resecuritization Notes, Series 2009-1, Class A-1 and/or Class A-2, issued by the CEMP Resecuritization Trust 2009-1.
6. All documents that refer, relate to or in any way reference the performance of any security you have purchased or sold through GSI, Geary, or CEMP.

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 TO QUASH AND FOR PROTECTIVE ORDER

The Bank of Union ("Bank"), John Shelley ("Shelley"), Mike Braun ("Braun") and Tim Headington ("Headington") (collectively, the "Third Parties") file this Motion to Quash and for Protective Order pursuant to Rule 660:2-9-4. In support of this Motion, the Third Parties state as follows:

1. On September 22, 2010, the Enforcement Division of the ODS filed its Notice of Hearing and Recommendation, detailing the misconduct and deceptive business practices of the named Respondents herein.
2. On October 29, 2010, the Third Parties (specifically, the Bank and Headington) filed their First Amended Demand for Arbitration and Statement of Claim ("Demand") against the Respondents. A true and accurate copy of the Demand, filed with the Financial Industry Regulatory Authority ("FINRA"), is attached hereto as Ex. A.
3. In FINRA arbitrations, by design, discovery is narrowly tailored, including the ability to take depositions. For good cause, exceptions are made.



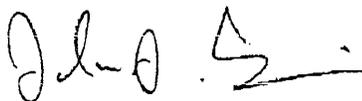
4. Within the last ten (10) days, Respondents have served subpoenas for records and for depositions upon the Third Parties. True and accurate copies of the subpoenas are attached hereto as Exs. B – F.

5. The subpoenas for records (Exs. B and C) are overbroad, unduly burdensome, meant to harass the Third Parties, and call for information protected from disclosure by the attorney-client privilege and work product doctrine. As a result, they should be quashed, or at most, counsel for the Respondents and the Third Parties should be ordered to negotiate the scope of the subpoenas.

6. Similarly, the subpoenas for testimony directed to Shelley, Braun and Headington are meant to harass the Third Parties and obtain deposition testimony that the Respondents are otherwise precluded from obtaining in the FINRA arbitration proceeding. These subpoenas too should be quashed, or at most, counsel for the Respondents and the Third Parties should be ordered to negotiate the necessity of the depositions and the scope of the depositions, if any.

WHEREFORE, the Third Parties respectfully request that the subpoenas at Exs. B – F be quashed, that a protective order be entered precluding the discovery sought by Respondents, or in the alternative, that such other relief be ordered as suggested in this Motion.

Dated: March 3, 2011.



John J. Schirger, MO No. 60583
Matthew W. Lytle, MO No. 59145
MILLER SCHIRGER, LLC
4520 Main Street, Suite 1570
Kansas City, MO 64111
P: 816-561-6500
F: 816-561-6501
E: jschirger@millerschirger.com
E: mlytle@millerschirger.com

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2011, a copy of the foregoing document with exhibits was served on the following by facsimile and email:

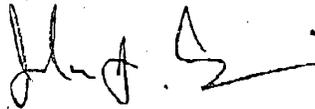
Irving Faught
Administrator
Oklahoma Department of Securities
Suite 860, First National Center
120 N. Robinson
Oklahoma City, OK 73102
F: 405-280-7742
E: ifaught@securities.ok.gov

I further certify that on the 3rd day of March, 2011, a copy of the foregoing document with exhibits was served on the following by regular U.S. mail, and that a copy of the foregoing document without exhibits was served on the following by email:

Joe M. Hampton
Ainslie Stanford
CORBYN HAMPTON, PLLC
One Leadership Square
211 North Robinson, Suite 1910
Oklahoma City, OK 63102
P: 405-239-7055
F: 405-702-4348
E: jhampton@corbynhampton.com
E: astanford@corbynhampton.com

Melanie Hall
Director of Enforcement
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
P: 405-280-7707
F: 405-702-4348
E: mhall@securities.ok.gov

Donald A. Pape, Esq.
Donald A. Pape, P.C.
401 West Main Street, Suite 440
Norman, OK 73069
P: 405-364-3346
F: 405-364-4666
E: don@dapape.com



John J. Schirger

 **Oklahoma Statutes Citationized**

 **Title 5. Attorneys and the State Bar**

 **Chapter 1 - Attorneys and Counselors**

 **Appendix 1 - Rules Creating and Controlling the Oklahoma Bar Association**

 **Article Article II**

 **Section Art II Sec 5 - Out-of-State Attorneys and Attorneys Granted a Special Temporary Permit To Practice**

Cite as: O.S. §, ___

A. Definitions - The following definitions govern this Article:

1. **Out-of-State Attorney:** A person who is not admitted to practice law in the State of Oklahoma, but who is admitted in another state or territory of the United States, the District of Columbia, or a foreign country.

2. **Oklahoma Attorney:** A person who is (a) licensed to practice law in Oklahoma, as an active or senior member as those categories are defined in Section 2 of this Article; and (b) a member in good standing of the Oklahoma Bar Association.

3. **Oklahoma Courts or Tribunals:** All trial and appellate courts of the State of Oklahoma, as well as any boards, departments, commissions, administrative tribunals, or other decision-making or recommending bodies created by the State of Oklahoma and functioning under its authority. This term shall include court-annexed mediations and arbitrations. It shall not, however, include federal courts or other federal decision-making or recommending bodies which conduct proceedings in Oklahoma.

4. **Proceeding:** Any action, case, hearing, or other matter pending before an Oklahoma court or tribunal, including an "individual proceeding" within the meaning of Oklahoma's Administrative Procedures Act (75 O.S. § 250.3).

5. **Attorney Granted Special Temporary Permit to Practice:** An attorney who is granted a special temporary permit pursuant to Rule Two Sections 5 and 6 of the Rules Governing Admission to the Practice of Law in the State of Oklahoma.

B. An out-of-state attorney may be permitted to practice before Oklahoma courts or tribunals solely for the purpose of participating in a proceeding in which he or she has been employed upon the following express conditions:

1. The out-of-state attorney shall make application with the Oklahoma Bar Association, in such form and according to the procedure approved by the Board of Governors of the Oklahoma Bar Association. Said application shall include an affidavit (or unsworn statement under penalty of perjury pursuant to 12 O.S. § 426) which: (a) lists each state or territory of the United States, the District of Columbia, or foreign country in which the out-of-state attorney is admitted; and (b) states that the out-of-state attorney is currently in good standing in such jurisdictions. If an out-of-state attorney commits actual fraud in representing any material fact in the affidavit or unsworn statement under penalty of perjury provided herein, that attorney shall be permanently ineligible for admission to an Oklahoma court or tribunal pursuant to this Rule, or for admission to the Oklahoma Bar Association. The out-of-state attorney shall file a separate application with respect to each proceeding in which he or she seeks to practice.

2. An Oklahoma court or tribunal may temporarily admit an out-of-state attorney on a showing of good cause for noncompliance with the other provisions of this Rule. Temporary admission under this Rule may be granted for a period not exceeding 10 days; however, such period may be extended as necessary on clear and convincing proof that the circumstances warranting the extension are beyond the control of the



out-of-state attorney.

3. Unless a waiver is granted pursuant to Subsection 4, the out-of-state attorney shall pay the sum of Three Hundred Fifty Dollars (\$350.00) as a non-refundable application fee to the Oklahoma Bar Association. If the proceeding is pending on the anniversary of the application, an annual renewal fee of Three Hundred Fifty Dollars (\$350.00) shall be paid to the Oklahoma Bar Association and such fee shall continue to be paid on each anniversary date until the proceeding is concluded or the out-of-state attorney is permitted to withdraw from the proceeding by the applicable Oklahoma court or tribunal. In the event the annual renewal fee is not timely paid, the Oklahoma Bar Association shall mail a renewal notice to the out-of-state attorney at the address set forth in the attorney's application filed with the Oklahoma Bar Association under this Rule (or at an updated address subsequently furnished by the out-of-state attorney to the Oklahoma Bar Association), apprising the attorney of the failure to timely pay the annual renewal fee of Three Hundred Fifty Dollars (\$350) with an additional late fee of one hundred dollars (\$100). If the out-of-state attorney fails to timely comply with this renewal notice, the Oklahoma Bar Association shall mail notice of default to the out-of-state attorney, the Oklahoma associated attorney (if applicable), and the Oklahoma court or tribunal conducting the proceeding. The Oklahoma court or tribunal shall file the notice of default in the proceeding, and shall remove the out-of-state attorney as counsel of record unless such attorney shows that the Oklahoma Bar Association's renewal notice was not received or shows excusable neglect for failure to timely pay the annual renewal fee and late fee. In the event of such a showing, the tribunal shall memorialize its findings in an order, and the out-of-state attorney shall within 10 calendar days submit the order to the Oklahoma Bar Association, promptly pay the annual renewal fee and late fee, and file a receipt from the Oklahoma Bar Association showing such payments with the Oklahoma court or tribunal.

4. Out-of-state attorneys appearing pro bono to represent indigent criminal defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to their incomes and the kinds of legal matters that would be covered by the representation, may request a waiver of the application fee from the Oklahoma Bar Association. Waiver of the application fee shall be within the sole discretion of the Oklahoma Bar Association and its decision shall be nonappealable.

5. The out-of-state attorney shall associate with an Oklahoma attorney. The associated Oklahoma attorney shall enter an appearance in the proceeding and service may be had upon the associated Oklahoma attorney in all matters connected with said proceeding with the same effect as if personally made on the out-of-state attorney. The associated Oklahoma attorney shall sign all pleadings, briefs, and other documents, and be present at all hearings or other events in which personal presence of counsel is required, unless the Oklahoma court or tribunal waives these requirements.

6. An out-of-state attorney shall by written motion request permission to enter an appearance in any proceeding he or she wishes to participate in as legal counsel and shall present to the applicable Oklahoma court or tribunal a copy of the application submitted to the Oklahoma Bar Association pursuant to Subsection B(1) of this Rule and a Certificate of Compliance issued by the Oklahoma Bar Association.

C. Admission of an out-of-state attorney to appear in any proceeding is discretionary for the judge, hearing officer or other decision-making or recommending official presiding over the proceeding.

D. Upon being admitted to practice before an Oklahoma court or tribunal, an out-of-state attorney is subject to the authority of that court or tribunal, and the Oklahoma Supreme Court, with respect to his or her conduct in connection with the proceeding in which the out-of-state attorney has been admitted to practice law. More specifically, the out-of-state attorney is bound by any rules of the Oklahoma court or tribunal granting him or her admission to practice and also rules of more general application, including the Oklahoma Rules of Professional Conduct and the Rules Governing Disciplinary Proceedings. Out-of-state attorneys are subject to discipline under the same conditions and terms as control the discipline of Oklahoma attorneys. Notwithstanding any other provisions of this Article or Subsection, however, out-of-state attorneys shall not be subject to the rules of this Court relating to mandatory continuing legal education.

E. The requirements set forth below shall apply to all attorneys granted a special temporary permit to practice:

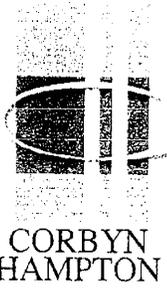
1. An attorney granted a special temporary permit to practice shall pay an administrative fee to the Oklahoma Bar Association of \$350.00 regardless of the duration of the permit. An annual fee in the amount of \$350.00 shall be collected on or before the anniversary of the permit. A late fee of \$100.00 shall be collected in the event the fee is paid within 30 days of the due date. In the event that the fee is not paid within 30 days of the due date, the special temporary permit shall be deemed cancelled and can only be renewed upon making application to the Board of Bar Examiners and the payment of a new application fee. The annual permit shall only be renewed upon affirmation that the conditions for which the special temporary permit was issued still exist. An attorney granted a special temporary permit to practice shall not appear on the roll of attorneys and shall not be considered a member of the Oklahoma Bar Association. However, an attorney granted a special temporary permit shall be subject to the jurisdiction of the Oklahoma Supreme Court for purposes of attorney discipline and other orders revoking, suspending or modifying the special permit to practice law.

2. Attorneys granted a special temporary permit to practice prior to the promulgation of this rule shall be deemed to have a renewal date of January 2, 2010.

3. All attorneys granted a special temporary permit to practice shall comply with the requirements of the Rules for Mandatory Continuing Legal Education with the exception that the annual reporting period shall be the anniversary date of the issuance of the special temporary permit to practice.

Historical Data

Amended by 2005 OK 29, approved and ordered April 25, 2005 (superseded document available).
Amended by order of the Supreme Court, 2009 OK 58, filed July 2, 2009, (superseded document available).



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A. Ainslie Stanford II
astanford@corbynhampton.com

February 18, 2011

John Schirger
MILLER SCHIRGER LLC
800 NW 47th Street, Suite 630
Kansas City, MO 64112

Re: *Geary Securities, Inc. fka Capital West Securities, Inc.; Keith D. Geary; Norman Frager; and CEMP, LLC; ODS File No. 09-141*

Dear John:

Enclosed please find copies of the following Subpoenas on behalf of GSI in the above-referenced matter:

1. A Subpoena Duces Tecum to Mr. Timothy Headington;
2. A Subpoena Duces Tecum the Bank of Union;
3. A Deposition Subpoena to Mr. Headington;
4. A Deposition Subpoena to John Shelley; and
5. A Deposition Subpoena to Mike Braun.

These three individuals are listed as witnesses on behalf of the Oklahoma Department of Securities in the *Department's Preliminary List of Witnesses and Exhibits*, filed on December 22, 2010, in this matter. Because counsel for ODS provided your contact information for these individuals in the witness list submitted by ODS in the ODS proceeding, we are hereby providing courtesy copies of the subpoenas that are being contemporaneously served upon these individuals. Should you wish to discuss these Subpoenas or any matter related to them, please do not hesitate to call. We will certainly work with you and the witnesses to accommodate any scheduling issues.

Very truly yours,

A. Ainslie Stanford II
For the Firm

Enclosures



Ainslie Stanford

From: John J. Schirger [JSchirger@millerschirger.com]
Sent: Wednesday, February 23, 2011 7:43 AM
To: Joe M. Hampton; Ainslie Stanford
Subject: Geary / Bank of Union and Headington

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John

John J. Schirger
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800 W. 47th Street, Suite 630
Kansas City, MO 64112
General: 816-561-6500
Direct: 816-561-6504
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jschirger@millerschirger.com

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Thanks,

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

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Ainslie Stanford

From: Ainslie Stanford
Sent: Monday, February 28, 2011 5:09 PM
To: 'John J. Schirger'
Cc: Joe M. Hampton
Subject: RE: Geary / Bank of Union and Headington

John:

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Ainslie Stanford

From: Joe M. Hampton
Sent: Monday, March 07, 2011 5:42 PM
To: 'John J. Schirger'; Ainslie Stanford
Subject: RE: Geary / Bank of Union and Headington

John:

I have reviewed your Motion to Quash and for Protective Order. Setting aside for the moment the document subpoena, what is your position on whether Messrs. Shelley, Braun and Headington will submit to depositions in the Oklahoma Department of Securities proceeding?

Thanks,

Joe Hampton

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Subject: RE: Geary / Bank of Union and Headington

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From: John J. Schirger [JSchirger@millerschirger.com]

Sent: Tuesday, March 08, 2011 12:12 PM

To: Joe M. Hampton; Ainslie Stanford

Subject: Re: Geary / Bank of Union and Headington

Traveling. Will call u tomorrow. Thx.
John

John J. Schirger
Miller Schirger, LLC
800 W. 47th Street, Ste. 630
Kansas City, MO 64112
816-561-6500

Sent using BlackBerry

From: Joe M. Hampton <JHampton@Corbynhampton.com>
To: John J. Schirger; Ainslie Stanford <AStanford@Corbynhampton.com>
Sent: Mon Mar 07 17:41:40 2011
Subject: RE: Geary / Bank of Union and Headington

John:

I have reviewed your Motion to Quash and for Protective Order. Setting aside for the moment the document subpoena, what is your position on whether Messrs. Shelley, Braun and Headington will submit to depositions in the Oklahoma Department of Securities proceeding?

Thanks,

Joe Hampton

From: John J. Schirger [mailto:JSchirger@millerschirger.com]
Sent: Monday, February 28, 2011 5:49 PM
To: Ainslie Stanford
Cc: Joe M. Hampton
Subject: RE: Geary / Bank of Union and Headington

Ainslie – I have been on the road and then we moved offices Friday and over the weekend. Getting settled in. Will look this over and get back to you this week after I confer with my clients. You have my word that if we elect to fight this, I will let you know so you can do what you have to do. Thanks.

John

John J. Schirger
MILLER SCHIRGER LLC
4520 Main Street, Suite 1570
Kansas City, MO 64111

3/14/2011

General: 816-561-6500
Direct: 816-561-6504
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From: Ainslie Stanford [<mailto:AStanford@Corbynhampton.com>]
Sent: Monday, February 28, 2011 5:09 PM
To: John J. Schirger
Cc: Joe M. Hampton
Subject: RE: Geary / Bank of Union and Headington

John:

Please advise as to whether you would like to discuss any concerns you might have related to the subpoenas referenced below. Alternatively, if you are aware that Mr. Headington and BOU have elected to not comply with the Subpoenas, please advise so that we can move forward. If we do not hear back from you, we will proceed in accordance with Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities.

Thanks,

A. Ainslie Stanford II
Corbyn Hampton, PLLC
211 N. Robinson, Suite 1910
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From: Ainslie Stanford
Sent: Wednesday, February 23, 2011 9:46 AM
To: 'John J. Schirger'
Cc: Joe M. Hampton
Subject: RE: Geary / Bank of Union and Headington

John:

Thank you for your response. As was stated my February 18 letter to you, we will certainly work with you and the witnesses to accommodate any scheduling issues that might arise. Please contact us upon your return to your office, so we can discuss whether the witnesses intend to comply. We believe Oklahoma law requires us to serve the subpoenas in the manner that we did. As a professional courtesy, we mailed you copies of these so that you would be aware of them.

3/14/2011

Thanks,

A. Ainslie Stanford II
Corbyn Hampton, PLLC
211 N. Robinson, Suite 1910
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www.corbynhampton.com

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From: John J. Schirger [mailto:JSchirger@millerschirger.com]
Sent: Wednesday, February 23, 2011 7:43 AM
To: Joe M. Hampton; Ainslie Stanford
Subject: Geary / Bank of Union and Headington

I am out of the office in depositions but was forwarded the subpoena for records and for depositions. We obviously need time to look into this given that we just received it and I am out of town, so assume the compliance date of February 25 on the subpoena for records will not be met, if at all. Also, going forward, direct all such communications to me. You know I represent the Bank and Mr. Headington on this matter.

John

John J. Schirger
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3/14/2011