

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JAN 26 2010

OKLAHOMA DEPARTMENT OF)
SECURITIES EX REL. IRVING)
FAUGHT, ADMINISTRATOR,)

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Plaintiff,)

v.)

Case No. CJ-2009-2773

Judge: Gurich, Noma D.

GLOBAL WEST FUNDING, LTD.,)
Co., an Oklahoma limited liability)
company; GLOBAL WEST FINANCIAL)
LLC, an Oklahoma limited liability)
Company; SURE LOCK FINANCIAL,)
LLC, an Oklahoma limited liability)
Company; SURE LOCK LOANS LLC,)
Oklahoma limited liability company; THE)
WAVE-GOLDMADE, LTD., an)
unincorporated association; BRIAN)
MCKYE, an individual; JOE DON)
Johnson, an individual; JAMES)
FARNHAM, an individual,)

Defendants.)

SET FOR HEARING:
February 12, 2010 at 10:00 a.m.

and)

HERITAGE ESTATE SERVICE,)
LLC, an Oklahoma limited liability)
company,)

Relief Defendant.)

**SPECIAL MASTER'S RESPONSE TO JEFF BURKE'S
MOTION FOR COURT AUTHORIZED RELEASE OF FUNDS**

Stephen J. Moriarty ("Special Master") the Court appointed Special Master for
HERITAGE ESTATE SERVICE LLC, an Oklahoma limited liability company ("Heritage")
hereby files his response (the "Response") to the Motion for Court Authorized Release of Funds

filed by Jeff Burke (“Burke”), *pro se*, on January 20, 2010 (the “Motion”). In support of his Response, the Special Master represents as follows:

FACTUAL BACKGROUND

1. On March 24, 2009, this Court entered a Temporary Restraining Order, Order Freezing Assets and Order for Accounting in this case (the “TRO”). The TRO provides, in part, as follows:

IT IS FURTHER ORDERED that Defendants, Relief Defendants, their agents, servants, employees, assigns and all those persons, directly or indirectly, acting on their behalf, under their direction and control, and/or in active concert or participation with them, who receive actual notice of the order, by personal service, facsimile or otherwise, and each of them are prohibited from directly or indirectly, transferring, withdrawing, concealing, removing, destroying, or otherwise disposing of any and all Assets.

2. On April 23, 2009, this Court entered its Order Appointing Special Master. Pursuant to the Order, the Special Master was given full authority to “operate and manage all assets” of Heritage. Special Master was given the authority to “take immediate custody, possession, and control of any and all assets” of Heritage. Further, Special Master was authorized to “collect any and all sums of money due or owing” to Heritage and to “institute” or “prosecute... actions or proceedings...”

3. As part of his duties, Special Master regularly opened and inspected mail delivered to Heritage at its business office at 4200 Perimeter Center Drive, Oklahoma City, Oklahoma.

4. Shortly after October 21, 2009, Special Master, while inspecting the mail of Heritage, identified a State of Oklahoma, Department of Central Services, Central Purchasing, Change Order Request, a copy of which is attached hereto as Exhibit “A”.

5. Special Master has obtained, or been provided with, the following information:

- a. on January 3, 2006 Articles of Organization of an Oklahoma Limited Liability Company were filed for Heritage with the Oklahoma Secretary of State. The Articles were signed by Brian McKye and Jeff Burke was listed as registered service agent. A copy of the articles is attached hereto as Exhibit "B";
- b. on or about January 10, 2009, Heritage Est Services, with a mailing address of 4200 Perimeter Center Drive, Oklahoma City, Oklahoma was awarded a contract by the State of Oklahoma (the "Contract");
- c. Jeff Burke signed as President of Heritage Est Services and his signature was notarized by Joe Don Johnson, President of Heritage; a copy of the Affidavit of Jeff Burke is attached as Exhibit "C";
- d. on July 24, 2009, after the appointment of Special Master, the State of Oklahoma issued a check to Heritage Est Services, with a mailing address of 4200 Perimeter Center Drive, Oklahoma City, Oklahoma, in the amount of \$34,065.00, representing partial payment on the Contract. The check was received by Jeff Burke. A copy of the check is attached hereto as Exhibit "D"¹.
- e. on January 12, 2010, the State of Oklahoma issued a check to Heritage Est Services, with a mailing address of 4200 Perimeter Center Drive, Oklahoma City, Oklahoma, in the amount of \$7,150.00, representing final payment on the Contract. The check was sent by the Special Master by the State of Oklahoma. A copy of the check is attached hereto as Exhibit "E" (the "Final Payment Check"). Special Master holds the Final Payment Check.

6. Special Master has reviewed the bank account of Heritage to attempt to identify any payments made by Heritage to Jeff Burke. Attached hereto as Exhibit "F" are copies of

¹ Special Master hereby reserves any claim he may have for recovery of the \$34,065.00 paid.

checks drawn on Heritage's account at Bank of the West, payable to Jeff Burke. The payments by Heritage to Burke total \$7,220.00.

7. On January 20, 2010, Burke filed the Motion requesting that the Court enter an Order directing that the Special Master deliver the Final Payment Check to Burke.

ARGUMENTS AND AUTHORITIES

In his Motion, Burke states "I am not or never have been associated with any of the above named defendants in any business matters nor have they in my field of business."

Motion, page 2, Factual Background. This is not an accurate statement.

The Articles of Organization for Heritage, signed by Defendant, Brian McKye, lists Burke as the registered service agent for Defendant, Heritage. *See Exhibit "B"*. Burke's purported sole proprietorship, Heritage Est Services, maintained the same mailing address as Defendant, Heritage. *See Exhibits "D" and "E"*. The Affidavit Burke executed to obtain the Contact is notarized by Defendant, Joe Don Johnson. *See Exhibit "C"*. Burke has received payments from Defendant, Heritage totaling \$7,220.00. *See Exhibit "F"*.

Burke has not established that he is entitled to receive the Final Payment Check. The evidence, as represented by the Exhibits attached hereto, establishes that Heritage has a claim to the Final Payment Check.

CONCLUSION

WHEREFORE, the Special Master respectfully requests that the Court deny the relief sought by the Motion and grant the Special Master such other and further relief as this court deems just and proper.



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SPECIAL MASTER

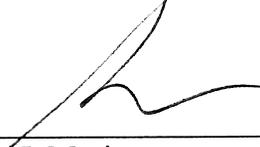
CERTIFICATE OF MAILING

This is to certify that on the 26th day of January, 2010, the foregoing was sent by U.S. Mail, first class, postage prepaid to:

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

Brian McKye
P.O. Box 957
Jay, OK 74346

Jeff Burke
2512 Covell Lane
Edmond, OK 73034



Stephen J. Moriarty

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