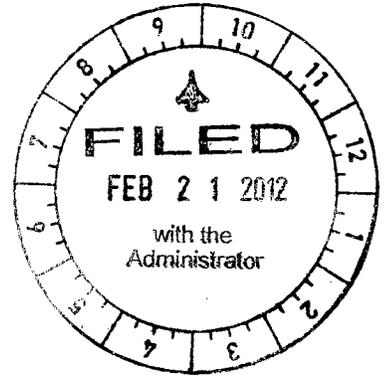


STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
THE FIRST NATIONAL CENTER  
120 NORTH ROBINSON, SUITE 860  
OKLAHOMA CITY, OKLAHOMA 73102



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' RESPONSE TO BANK OF UNION'S  
MOTION TO INTERVENE**

Respondents Keith D. Geary, Geary Securities, Inc. (formerly known as Capital West Securities, Inc.), and CEMP, LLC (the "Geary Respondents") respectfully respond as follows to the Motion to Intervene filed herein by the Bank of Union ("BOU"):

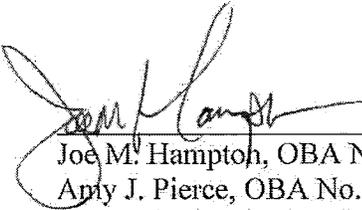
1. "Intervention" is the procedural process whereby a non-party seeks to become a party to a proceeding. BOU is not a party to this enforcement action. There is no valid reason for BOU to become a party to this enforcement action for any purpose, including the "limited purpose" of opposing discovery requests directed to BOU as a non-party.
2. BOU's purported reason for filing its Motion is wholly inaccurate. BOU states that it and its officers and directors "have been the subject of harassment and abuse by the Respondents and their counsel through various discovery tactics." BOU Motion, p. 1. There has been no such harassment or abuse. The Geary Respondents have properly invoked the discovery rights

and procedures expressly granted by the Department's own Rules. As the Hearing Officer is well aware:

- The Department has identified two BOU Officers (John Shelley and Michael Braun) as witnesses in this action;
  - In addition to Mr. Shelley, the Department has identified six BOU Directors as witnesses in this action;
  - At the request of the Geary Respondents and with no objection by the Department, the Hearing Officer has previously issued document and deposition subpoenas to BOU, its officers and the six Directors; and
  - At the request of the Department, the Hearing Officer issued deposition subpoenas for Mr. Shelley and Mr. Braun.
3. The Department's Rules do not authorize or contemplate a motion to intervene in an enforcement action such as this one.
  4. The Oklahoma Pleading Code addresses intervention in 12 Okla. Stat. 2024. Section 2024 addresses intervention as a matter of right and permissive intervention. BOU's Motion fails both tests. Intervention as a matter of right requires (a) a statute that confers an unconditional right to intervene, or (b) that the applicant (BOU) claims an interest in the property or transaction that is the subject of the pending action. 12 Okla. Stat. 2024 (A). Permissive intervention is allowed where (a) a statute confers a conditional right to intervene, or (b) the applicant's claim or defense shares common questions of fact or law with the main action. 12 Okla. Stat. 2024 (B).

5. Section 2024 (C) requires the applicant (BOU) to submit a pleading that sets forth the claim or defense for which intervention is sought. BOU has not complied with this requirement because BOU's request is not truly an intervention request. Rather, BOU, as a non-party, wishes to complain about its involvement in discovery proceedings in this action. As stated herein, BOU's misguided Motion to Intervene should be denied.
6. Section 2024 of the Oklahoma Pleading Code also states that "[i]n exercising its discretion the court *shall* consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." 12 Okla. Stat. 2024 (emphasis added). BOU seeks to interfere with and further delay the parties' efforts to conduct and complete discovery in this action. For example, BOU's Motion asks the Hearing Officer to grant intervention and then establish a briefing schedule for BOU to object to the parties' requests for issuance of subpoenas.
7. BOU's Motion is unnecessary. BOU has previously demonstrated its ability to object to discovery efforts directed to it in this enforcement action. For example, BOU previously filed a Motion to Quash and for Protective Order after the Hearing Officer issued document and deposition subpoenas to BOU, two of its officers and one of its shareholders. In that instance, BOU filed its Motion, the Geary Respondents filed their response, the Hearing Officer conducted a hearing, and denied BOU's Motion. To the extent BOU wants to resist or oppose further discovery efforts, it can file similar motions as a non-party. BOU's Motion to Intervene should be denied.

Respectfully submitted,



Joe M. Hampton, OBA No. 11851

Amy J. Pierce, OBA No. 17980

A. Ainslie Stanford II, OBA No. 18843

**CORBYN HAMPTON PLLC**

One Leadership Square

211 North Robinson, Suite 1910

Oklahoma City, Oklahoma 73102

Telephone: (405) 239-7055

Facsimile: (405) 702-4348

Email: [jhampton@corbynhampton.com](mailto:jhampton@corbynhampton.com)

[apierce@corbynhampton.com](mailto:apierce@corbynhampton.com)

[astanford@corbynhampton.com](mailto:astanford@corbynhampton.com)

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

**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2012, a copy of the foregoing document was served on the following by e-mail:

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

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

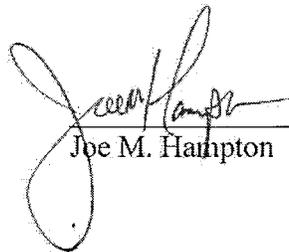
Melanie Hall, Director of Enforcement  
Terra Shamas Bonnell, Enforcement Attorney  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102;

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

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

John J. Shirger  
Matthew W. Lytle  
4520 Main Street, Suite 1570  
Kansas City, MO 64111

Gary A. Bryant  
Fourteenth Floor, Two Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102



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Joe M. Hampton