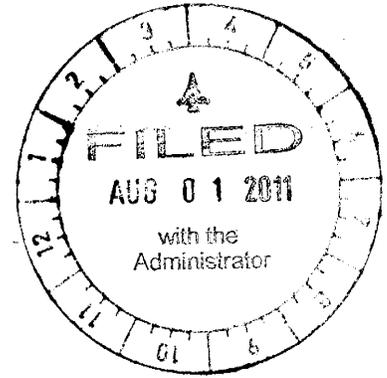


STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



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

**APPLICATION TO DEEM PENDING MOTION FOR RECONSIDERATION OF
ADMINISTRATOR'S REFUSAL TO PROCEED WITH SUBPOENA
ENFORCEMENT CONFESSED AND GRANTED OR, ALTERNATIVELY,
REQUEST FOR HEARING ON PENDING MOTION FOR RECONSIDERATION**

On July 13, 2011, Respondents, Geary Securities, Inc., Keith D. Geary, and CEMP, LLC (the "Geary Respondents"), filed their "Motion for Reconsideration of Administrator's Refusal to Proceed with Subpoena Enforcement," which is expressly adopted and incorporated herein by reference (the "Motion to Reconsider"). The Geary Respondents respectfully request that the Administrator deem such Motion confessed and granted or, alternatively, promptly schedule a hearing on such Motion to protect the Geary Respondents' right to discovery, due process and fundamental fairness as guaranteed by the Department's Rules and applicable statutory and case law. In support of this request, the Geary Respondents show the following:

1. The Motion to Reconsider requested that the Administrator of the Department of Securities reconsider his refusal to proceed with enforcement of the subpoenas (one for documents, one for deposition) previously issued by the Hearing Officer and served on Timothy Headington (the "Headington Subpoena").

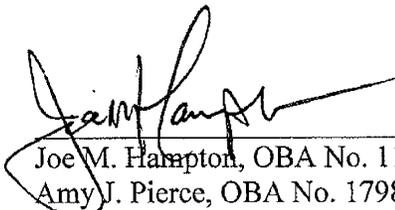
2. The Administrator has taken no action on the Motion to Reconsider since it was filed on July 13, 2011. In the 18 days since the Motion to Reconsider was filed, the Administrator has not filed any response, scheduled any hearing, or initiated any communication with counsel for the Geary Respondents concerning the issues addressed by the Motion to Reconsider.
3. The Department's own Rules require a response to a written motion be filed within 10 days after receipt of the motion. *See*, Rule 660:2-9-3(c)(2). The Motion to Reconsider was filed and served on July 13, 2011, such that a response was due by July 23, 2011. No response has been filed to date. As a result, the Motion to Reconsider should be deemed confessed and an order issued requiring the Administrator to immediately resume, pursue and obtain enforcement of the subject Subpoenas.
4. In the event the Geary Respondents' request for a default order granting the Motion to Reconsider is denied, they alternatively request that a hearing on the Motion to Reconsider be scheduled and conducted on an expedited basis.
5. Time is of the essence. The Administrator is or should be well aware that counsel for the parties in this enforcement action are attempting to identify and schedule a date for the hearing on the merits. However, it is difficult, if not impossible, to accurately predict when this action will be ready for a hearing on the merits in light of the present and

continuing uncertainty of the timing of discovery involving Mr. Headington pursuant to the Subpoenas which are the subject of the pending Motion to Reconsider. As a result, the Administrator's inaction is interfering in a significant way with the parties' scheduling efforts. In addition, the Administrator is well aware that the pendency of this enforcement action continues to interfere with Geary Securities' business operations. The Administrator is also well aware and has previously acknowledged the importance of discovery in this enforcement action. Absent the discovery granted and guaranteed by the Department's own Rules, the Geary Respondents ability to defend themselves is unfairly and impermissibly compromised and they are deprived of their rights to due process and fundamental fairness.

WHEREFORE, the Geary Respondents respectfully request that the Administrator immediately take the following action:

- A. Issue an Order granting the pending Motion to Reconsider (filed July 13, 2011), and commit to immediately resume and pursue all available action to obtain judicial enforcement of the Headington Subpoena; or
- B. Alternatively, schedule a hearing on the pending Motion to Reconsider on an expedited basis.

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 August 1, 2011, a copy of the foregoing document was served on the following by electronic mail:

Hearing Officer Bruce Kohl, Esq.
201 Camino del Norte
Santa Fe, NM 87501

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

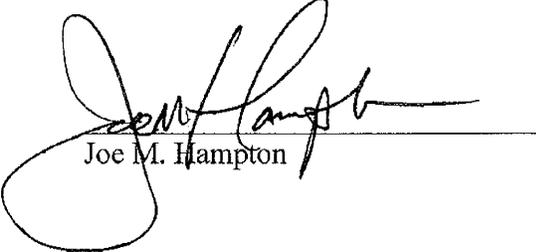
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