

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



In the Matter of:

Anthony L. Cross (CRD #3155726), and  
The O.N. Equity Sales Company (CRD #2936),

Respondents,

ODS File No. 11-017

**RESPONSE IN SUPPORT OF RESPONDENT ANTHONY L. CROSS' REQUESTED  
DOCUMENT SUBPOENA TO THERESA I. HUGHES**

The Oklahoma Department of Securities (the "Department") has objected to Anthony L. Cross's ("Mr. Cross") request for issuance of a document subpoena to Theresa I. Hughes ("Ms Hughes") on the following bases: (1) it is unreasonable, (2) it is excessive in scope, (3) it is unduly burdensome, and (4) it seeks irrelevant information. ONESCO respectively disagrees with the Department's contentions and, for the following reasons, requests that the Administrator or the independent hearing officer issue Mr. Cross's requested document subpoena.

First, it is undisputed that the Department has placed Ms. Hughes' investment experience directly at issue in this proceeding. Any review of an investment recommendation for suitability purposes carries with it an obligation to learn an individual investor's prior investment experience. The importance of this information is highlighted by the fact that it is mandatory information required in customer profile information recorded from all new customers and in every periodic customer profile update thereafter. This is true not just for ONESCO, but for every securities firm.

In the initial customer profile Ms. Hughes provided in 2004, she indicated that she had 20 years of prior investment experience, including products such as CDs, bonds and stocks. See Ms.

Hughes's 5/4/04 ONESCO Form 1, attached as Ex. A. Yet when asked by the Department to describe her past investment experience, Ms. Hughes inexplicably stated "NONE." See p. 4, ODS Production to ONESCO (Ms. Hughes's handwritten complaint), attached as Ex. B. As a result, Ms. Hughes's prior investment experience is not only relevant to the evaluation of the suitability of the recommendations made by Mr. Cross, but it is relevant to Ms. Hughes's overall credibility as a witness.

Moreover, while ONESCO generally would agree that a request for documents unlimited in time is unreasonable, the circumstances of this request are exceptional. At the time that Ms. Hughes provided her customer profile information to Mr. Cross, she also provided a copy of a single account statement for a securities account that she maintained at Merrill Lynch, Pierce, Fenner & Smith ("Merill Lynch") in September of 1993 -- investments that she made nearly 20 years ago. See Ms. Hughes's 1993 Merrill Lynch account statement, attached as Ex. C. This account statement appears to show that Ms. Hughes had experience investing in limited partnerships, growth stock mutual funds, foreign company mutual funds, and mutual funds that invested in both stocks and bonds, among other investments. Unfortunately, no other account statements were provided by Ms. Hughes, and, as ONESCO can attest, it is highly unlikely that any securities firm would maintain copies of accounts statements that date back so far into the past. In other words, Ms. Hughes is likely the only source of these documents. Under the circumstances, ONESCO strongly disagrees with the Department's position that "requir[ing] Ms. Hughes to produce documents relating to purchases or sales of securities she made 10, 20 30 or more years ago is unreasonable, excessive and unduly burdensome."

Second, although it is not entirely clear what the Department believes ONESCO should have done differently in supervising Ms. Hughes's ONESCO account, the Department's

Enforcement Recommendation (the "Recommendation") does cite ONESCO's general prohibition prohibiting a registered representative from "arrang[ing] credit for customers in order that such customers can buy or sell securities." See Recommendation, ¶ 22. While no specific allegations have been made by the Department that ONESCO acted, or failed to act, in any manner inconsistent with this policy, the allegations against ONESCO are sufficiently opaque to cause ONESCO concern. For example, the Recommendation alleges that "[t]he transactions in [Ms. Hughes's] account were not investigated by ONESCO." See Recommendation, ¶24. Such an allegation could arguably be construed as an allegation that ONESCO was somehow complicit in some scheme to "arrange credit" for Ms. Hughes to deposit into her ONESCO securities account to purchase securities. If that is the case, ONESCO submits that Ms. Hughes' bank account statements are highly relevant because the initial deposit into Ms. Hughes' account came directly from her personal checking account, and in no way indicates that Ms. Hughes's deposit came from any third party pursuant to a credit arrangement. See Ms. Hughes's 11/8/06 personal check opening her account, attached as Ex. D.

Other than the information conveyed by Ms. Hughes's personal check (i.e., she had available cash in her checking account to write a check for \$96,000), a document that has already been provided to the Department, ONESCO has no way of knowing the extent to which the Department will try argue at the hearing that ONESCO either participated in or was somehow complicit in some scheme to arrange for Ms. Hughes to receive credit for the purchase of securities. More importantly, absent a complete set of Ms. Hughes's bank statements, ONESCO has no way to identify the sources of the funds Ms. Hughes received in her checking account at the time she deposited money into her ONESCO securities account. To the extent that the Department intends to press allegations that Mr. Cross improperly arranged for credit for Ms.

Hughes so she could invest in securities, or that ONESCO either participated in or was complicit in such an arrangement, a complete set of Ms. Hughes's bank statements throughout the time that she maintained her account with ONESCO is highly relevant to the defense of such claims, and, as a matter of fundamental fairness, both Mr. Cross and ONESCO should be allowed to view documents that would tend to show the extent to which Ms. Hughes funded her investments on credit.

For the foregoing reasons, ONESCO respectfully requests that the Administrator of the independent hearing officer overrule the Department's objection to Mr. Cross's document subpoena to Ms. Hughes and issue same.

Respectfully submitted,



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**ATTORNEYS FOR ONESCO**

CERTIFICATE OF SERVICE

I hereby certify that a copy of this instrument was served on the following individuals and entities by depositing same in the U.S. Mail, first-class postage prepaid, and/or by other means as noted below, on June 22, 2012:

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