

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

**RESPONDENT CROSS' RESPONSE TO ODS' OBJECTION TO HIS REQUESTED
SUBPOENA DUCES TECUM TO THERESA HUGHES**

Respondent Anthony L. Cross ("Cross") respectfully submits this Response to ODS' Objection to the issuance of his Subpoena Duces Tecum to Theresa I. Hughes (the "Subpoena"). In support of his Response, Cross states that:

Overview:

In reviewing cases for suitability, arbitrators, regulators and compliance officers must remember that the application of the doctrine does not involve the substitution of their view of suitability for those of the broker. The doctrine requires that the examiner review the broker's conduct and determine if the broker had a reasonable basis for believing that the recommendation was suitable for the customer (in light of the customer's goals, investment experience, financial condition, risk tolerance, etc.), and whether he had a reasonable basis for believing that the customer understood the investment and its risks.

Based upon the foregoing, Cross requested that the Oklahoma Department of Securities ("ODS") issue his Subpoena to Theresa Hughes (the customer in this dispute), which requests documents and information regarding her prior investment

experience, risk tolerance, and financial condition. Nevertheless, the ODS Objection disingenuously asserts, the “Requested Subpoena is unreasonable, excessive in scope, and seeks irrelevant evidence”.

It is significant to note that in her Complaint to ODS, Ms. Hughes falsely asserted that she had no prior investment experience, in addition to other self-serving falsehoods. However, at the outset of her long relationship with Cross, Ms. Hughes provided Cross with monthly statements from investment accounts she maintained with Merrill Lynch Pierce Fenner & Smith (“Merrill Lynch”) since the early 1990’s. Ms. Hughes has now signed a letter asking Merrill Lynch for copies of the monthly statements from those investment accounts. She has done this without argument or complaint.

Response to ODS Objection:

Items 1 through 4 of the Subpoena seek documents and information relating to Ms. Hughes’ purchase or sale of securities through any person or firm other than Respondents. The documents and information requested are relevant to determine Ms. Hughes’ investment experience and understanding of market risk.

These Items seek documents in Ms. Hughes’ possession or control and otherwise provides that she may satisfy the requests for production by providing a responsive written statement (a) identifying firms where she maintained investment accounts, (b) estimating the particular years she had those accounts, and (c) authorizing Cross to request account from the firms where said accounts were maintained.

Items 1 through 4 seek documents and information that are relevant to the determination of “suitability” and Ms. Hughes’ credibility / truthfulness. Moreover, these Items make requests in a format that is not at all burdensome to Ms. Hughes.

Items 5 and 6 of the Subpoena seek production of monthly bank account statements and the identity of banks other than First Fidelity Bank where Ms. Hughes maintained accounts from 2006 forward. The documents and information requested are relevant to determine Ms. Hughes financial condition and credibility / truthfulness.

ODS asked Ms. Hughes to provide it with monthly statements from her First Fidelity Bank account beginning in 2002 and going forward. Ms. Hughes cooperated with ODS, and ODS has produced those documents to Respondents. In Item 5, Cross simply seeks to obtain those monthly First Fidelity Bank account statements that Ms. Hughes omitted from her production to ODS. Item 5 provides an alternative to Ms. Hughes producing those bank account statements by allowing her to providing Cross a written authorization to obtain any of the requested documents that are not in her possession or control.

Item 6 requests Ms. Hughes to produce monthly bank account statements for 2002 forward from any bank account other than her First Fidelity Bank account ending in “1121”. Ms. Hughes may satisfy this request by providing documents in her possession or control and by providing Cross a written authorization to obtain any of the requested documents that are not in her possession or control.

These Items request documents and information that are relevant to the determination of “suitability” and Ms. Hughes’ credibility / truthfulness. As in the case of Items 1 through 4, Items 5 and 6 make requests in a format that is not at all

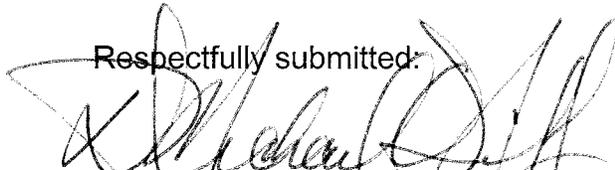
burdensome to Ms. Hughes. Finally, ODS clearly deems such documents to be relevant, or it would not have requested and obtained them from Ms. Hughes.

ODS lacks standing to object to the issuance of the Subpoena at issue because it does not represent Ms. Hughes. Accordingly the Hearing Officer should deny ODS' Objection to Cross' Subpoena.

Conclusion:

Based upon the foregoing, Cross respectfully requests that the Hearing Officer issue the Subpoena in the interests of justice, fair play, and the avoidance of delaying the proceedings in this matter.

Respectfully submitted:



D. Michael O'Neil, Jr. (OBA #6784)

CHRISTENSEN LAW GROUP P.L.L.C.

210 Park Avenue, 700 Oklahoma Tower
Oklahoma City, OK 73102

michael@christensenlawgroup.com

Telephone: (405) 232-2020

Facsimile: (405) 236-1012

ATTORNEY FOR RESPONDENT

ANTHONY L. CROSS

CERTIFICATE OF SERVICE

I hereby certify that a copy of this instrument was served on the following individuals and entities by Hand Delivery, depositing same in the U.S. Mail, first-class postage prepaid, and/or by other means as noted below, on June 14, 2012:

Irving L. Faught
Administrator, Okla. Dept. of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102

U.S. Mail Fax E-mail

Terra S. Bonnell, Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102

U.S. Mail Fax E-mail

Robert J. Carlson
GABLEGOTWALS
100 West Fifth Street
Suite 1100
Tulsa, Oklahoma
ATTORNEYS FOR ONESCO

U.S. Mail Fax E-mail



D. Michael O'Neil