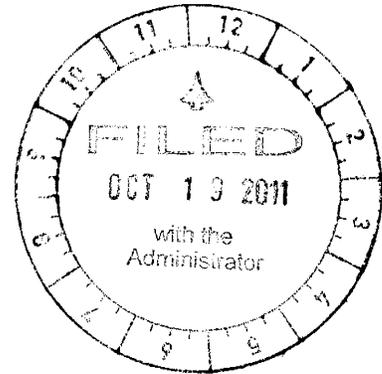


STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
THE FIRST NATIONAL CENTER  
120 NORTH ROBINSON, SUITE 860  
OKLAHOMA CITY, OKLAHOMA 73102



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

**GEARY RESPONDENTS' REPLY TO DEPARTMENT'S OBJECTION TO MOTION  
FOR RECUSAL AND REQUEST FOR HEARING**

The Geary Respondents respectfully submit the following reply in connection with their Motion for Recusal of Hearing Officer Bruce K. Kohl (filed on October 3, 2011) and request that such Motion be scheduled for a prompt hearing and decision.

1. A hearing was conducted on Friday, September 30, 2011, to address the issue of a September 26, 2011 *ex parte* communication between the Hearing Officer and counsel for material non-parties. In the course of the September 30<sup>th</sup> hearing, the Hearing Officer invited any party to file a motion for recusal and stated he would schedule and conduct a hearing on any such motion.<sup>1</sup>
2. Respondents filed their Motion for Recusal on Monday, October 3, 2011.
3. The Department filed its Objection on October 10, 2011.
4. The Hearing Officer has not scheduled the Motion for Recusal for hearing, nor has he issued any ruling. As of the date this Reply is filed, the Motion for Recusal has been pending for 16 days.

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<sup>1</sup> As the Hearing Officer acknowledged during the September 30th hearing, his decision on the recusal issue is not necessarily the end of the recusal decision-making process.

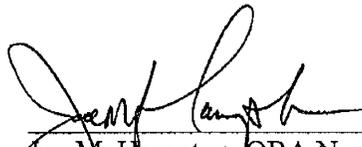
5. The lack of action on the pending Motion for Recusal is further delaying this already stalled enforcement action. Respondents believe it would be inappropriate to file any motions presenting substantive issues to the Hearing Officer while the Motion for Recusal is pending and unresolved, notwithstanding the fact that multiple substantive motions need to be filed. Respondents continue to suffer significant prejudice and injury as a result of the delays encountered in this enforcement action. The delays are not in any manner attributable to any actions or inactions by the Respondents. Rather, the delays are directly attributable to the Department's discovery tactics (which are the subject of discovery issues that have now been pending and unresolved for more than five months), the evasive discovery tactics of material non-parties, and the fact the Hearing Officer voluntarily engaged in, but failed to voluntarily disclose, an *ex parte* communication with counsel for the same material non-parties.

6. The Department's position in response to the Motion for Recusal is misplaced, but not surprising. The Department completely ignores the lack of awareness on the part of the Hearing Officer, and the appearance of impropriety and lack of neutrality that was created by the *ex parte* communication and the failure to voluntarily disclose such communication. The Department, by its own actions and by condoning the actions of others, has deprived the Respondents of their rights to discovery, due process and fundamental fairness under, among other things, the Department's own Rules. The Department, through its Administrator (who appointed the Hearing Officer) and staff (who approve the Hearing Officer's contract and compensation), have an inherent conflict of interest and resulting lack of objectivity and impartiality on the recusal issue.

7. As stated in the Motion for Recusal, the integrity of the administrative process is paramount. The *ex parte* communication, the failure to voluntarily disclose the communication, and the failure to take prompt action on the recusal request undermines the integrity of the process.

WHEREFORE, based on the foregoing reply and the argument and authority contained in the previously-filed Motion for Recusal, The Geary Respondents respectfully request that the Motion be scheduled for hearing and decision no later than October 28, 2011.

Respectfully submitted,



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Joe M. Hampton, OBA No. 11851  
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**ATTORNEYS FOR RESPONDENTS GEARY  
SECURITIES, INC., KEITH D. GEARY, AND  
CEMP, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 19, 2011, a copy of the foregoing document was served on the following via electronic mail:

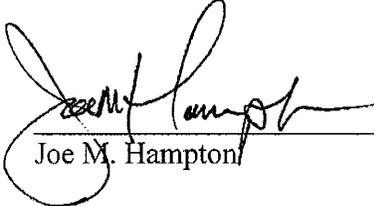
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