

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



In the Matter of:

Richard W. Possett, Sr., d/b/a The Navigator Group,

Respondent.

ODS File No. 11-076

DEPARTMENT'S OBJECTION TO ISSUANCE OF THE SUBPOENA DUCES TECUM TO GABRIELE BLANKENSHIP REQUESTED BY RESPONDENT POSSETT

The Oklahoma Department of Securities ("Department") respectfully objects to the issuance of the *Subpoena Duces Tecum* to Gabriele S. Blankenship ("Ms. Blankenship") requested by Respondent Richard W. Possett, Sr. ("Possett") by letter dated August 13, 2012 ("Requested Subpoena").

Pursuant to 660:2-9-4(a) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules"), the Administrator of the Department may, in his discretion, require a party seeking a subpoena to show the general relevance and reasonable scope of the evidence sought as a condition precedent to the issuance of the requested subpoena. If the Administrator "determines that the subpoena or any of its terms is unreasonable, oppressive, excessive in scope, unduly burdensome or not relevant," after considering all the circumstances, "he may refuse to issue the subpoena, or issue the subpoena only upon such conditions as fairness requires." Okla. Admin. Code § 660:2-9-4(a).

If required by the Administrator, Respondent Possett has the burden of demonstrating the general relevance and reasonable scope of the Requested

Subpoena as a condition precedent to its issuance. Without shifting such burden, the Department asserts that the Requested Subpoena is unreasonable, excessive in scope, and seeks irrelevant evidence. The Requested Subpoena appears to be intended to harass Ms. Blankenship and/or conduct discovery for Possett's defense in civil litigation between him and Ms. Blankenship. See *Blankenship v. Possett*, CJ-2010-3820, (Tulsa Co. Okla. filed June 15, 2010) (includes a cause of action of Fraud in the Inducement, Deceit, and Fraud).

Unlike the civil action initiated against Possett by Ms. Blankenship, the *Order to Cease and Desist* issued against Possett in this proceeding on April 30, 2012 ("C&D Order") is based solely on Possett's act(s) of transacting business in this state as an unregistered broker-dealer in violation of Section 1-401 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011). Possett admits that he was not registered under the Act at any time material hereto. Letter from Possett to Irving L. Faight, Administrator, Oklahoma Department of Securities (dated May 24, 2012) (filed May 31, 2012). The ultimate issue is whether Possett "engaged in the business of effecting transactions in securities for the account of others or for the person's own account." Okla. Stat. tit. 71, § 1-102(4) (definition of "broker-dealer"). The findings of fact contained within the C&D Order pertain to a "Custodial Agreement," dated November 16, 2007, between Ms. Blankenship and Possett in which Possett agreed to maintain a securities custody account in Ms. Blankenship's name and was instructed by Ms. Blankenship to purchase certain preferred stock.

In the Requested Subpoena, Possett seeks the production of twenty-five (25) categories of documents including, among many other things, information relating to all brokerage and bank accounts owned by Ms. Blankenship during the years 2006-2008. See Requested Subpoena, Appendix "A" ¶¶ 2-6. This information is not relevant in any way to this proceeding. Further, a witness to this proceeding should not be required to produce any *irrelevant* personal financial information to a non-registered person whom she has accused in civil litigation of defrauding her. See *Blankenship v. Possett*, CJ-2010-3820 (Tulsa Co. Okla., filed June 15, 2010). The witness would be unjustifiably subjected to an increased risk of identity fraud, financial fraud and/or theft.

The Requested Subpoena also seeks the production of documents relating to certain "subject property." See Requested Subpoena, Appendix "A" ¶¶ 7-10 and 12-13. The term "subject property" is defined by the Requested Subpoena to "have the meaning as used by Complainant in the 'Timeline and Summary of Gabriele Blankenship' a/k/a/ 'Timeline and Summary of Blankenship Investment.'" Requested Subpoena, Definitions ¶ 8. The "subject property" appears to be commercial real estate. See Requested Subpoena, Appendix "A" ¶ 8. The "subject property" does not have any relevancy as to whether Possett engaged in the business of effecting transactions in securities for the account of others or for his own account.

Several of the other categories of documents sought by the Requested Subpoena also appear irrelevant to this proceeding. See Requested Subpoena, Appendix "A" ¶¶ 11, 13, 15-22 and 25. For example, it is inconceivable how evidence relating to whether Ms. Blankenship "solicited working capital funds for the benefit of the Guenthers, Guenther Entities, and Jenks-Cochrane Properties from third parties" is

relevant to whether Possett engaged in the business of effecting transactions in securities for the account of others or for his own account. See Requested Subpoena, Appendix "A" ¶ 11.

In conclusion, the purpose of the Requested Subpoena appears to be to harass Ms. Blankenship and/or conduct discovery for Possett's defense in civil litigation between him and Ms. Blankenship. The Requested Subpoena is unreasonable, excessive in scope, and seeks irrelevant evidence. The Requested Subpoena should not be issued in its proposed form.

Respectfully,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of August, 2012, a true and correct copy of the above and foregoing objection was emailed and mailed by first-class mail with postage prepaid thereon, to the following:

Richard W. Possett, Sr.
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rpossett@att.net



Terra Shamas Bonnell