

IRVING L. FAUGHT  
ADMINISTRATOR



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES

*MEMORANDUM*

*To: Irving L. Faught, Administrator*

*From: Melanie Hall, Deputy Administrator*

*Date: July 6, 2012*

*Re: ENFORCEMENT REPORT*

Attached is the report of the enforcement activities of the Department for the month ended June 30, 2012.

Attachment

[h/home/londonb/EnforcementReports/11\\_Enf-Reports\\_Jun-2012.doc](http://home/londonb/EnforcementReports/11_Enf-Reports_Jun-2012.doc)

**OKLAHOMA DEPARTMENT OF SECURITIES  
ENFORCEMENT ACTIVITIES  
JUNE 2012**

		<b>-FY-12</b>		<b>FY-11</b>	
		<b>Month</b>	<b>YTD</b>	<b>Month</b>	<b>YTD</b>
<b>I.</b>	<b>Enforcement Files</b>				
	a. Active Enforcement Files as of first day of the reporting month	247		253	
	b. Enforcement Files Opened During Month	9	99	9	86
	1. Securities Act	8	82	7	75
	2. Business Opportunity Sales Act	0	11	2	8
	3. Other	1	6	0	3
	c. Enforcement Files Closed During Month	5	82	28	116
	d. Active Enforcement Files as of last day of the reporting month	251		234	
<b>II.</b>	<b>Actions Taken During Month</b>				
	a. Orders Initiating Investigation	0	0	0	1
	1. Securities Act	0	0	0	1
	2. Business Opportunity Sales Act	0	0	0	0
	b. Summary Orders	0	2	0	0
	1. Securities Act	0	2	0	0
	2. Business Opportunity Sales Act	0	0	0	0
	c. Notices of Opportunity for Hearing Served		16	1	14
	1. Securities Act-Notices	0	16	1	13
	i. Hearing Set	2	4	0	3
	ii. Hearings Held	0	1	0	0
	2. Business Opportunity Sales Act Notices	0	0	0	1
	i. Hearing Set	0	0	0	0
	ii. Hearings Held	0	0	0	0

		FY-12		FY-11	
		Month	YTD	Month	YTD
	d. Orders	2	34	1	31
	1. Securities Act	2	34	1	30
	2. Business Opportunity Sales Act	0	0	0	1
	e. Public Settlement Agreements	0	10	0	7
	1. Securities Act	0	10	0	7
	2. Business Opportunity Sales Act	0	0	0	0
	f. Confidential Settlement Agreements	0	0	0	0
	1. Securities Act	0	0	0	0
	2. Business Opportunity Sales Act	0	0	0	0

### SUMMARY

**In the Matter of:     Anthony L. Cross and The O.N. Equity Sales Company**  
**ODS File No. 11-017**

On January 25, 2012, the Administrator of the Department issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Anthony L. Cross (Cross) and The O.N. Equity Sales Company (ONESCO) (collectively, the "Respondents"). The recommendation alleged Respondents violated 660:11-5-42 of the Rules, in connection with the offer and/or sale of securities in and/or from Oklahoma.

On March 9, 2012, Respondents filed their answers and requested a hearing. On March 30, 2012, the Administrator issued an Order Setting Hearing.

On May 4, 2012, the Administrator issued an Agreed Scheduling Order.

On June 6, 2012, Respondent Cross filed a motion for appointment of a hearing officer. On June 12, 2012, the Department filed its objection to Cross' request to the issuance of a Subpoena Duces Tecum to Theresa Hughes. On June 14, 2012, Cross filed his response to the Department's objection to his requested subpoena. On June 18, 2012, Robert Fagnant filed his Entry of Appearance as counsel for the Department. On June 18, 2012, Respondent ONESCO filed an application for the issuance of deposition subpoenas. On June 19, 2012, the Hearing Officer issued deposition subpoenas to Theresa Hughes and Tamatha Rowe-Simons. On June 29, 2012, ONESCO filed its response in support of Cross' requested subpoena duces tecum. On June 29, 2012, the Administrator issued orders granting Cross' request for the issuance of subpoena duces tecum to Ms. Hughes with modifications and denied Cross' request for the appointment of a hearing officer.

**In the Matter of:     Richard W. Possett Sr.  
                              ODS File No. 11-076**

On April 30, 2012, the Administrator of the Department issued a notice of opportunity for hearing on an Order to Cease and Desist (Order) against Richard W. Possett Sr. Possett transacted business in this state as an unregistered broker-dealer, in violation of Section 1-401 of the Oklahoma Uniform Securities Act of 2004 (Act).

On May 31, 2012, Possett filed his answer and requested a hearing.

On June 18, 2012, the Administrator issued an Agreed Order Setting Hearing.

**In the Matter of:     Colby Younger Ruth  
                              ODS File No. 12-057**

On March 30, 2012, the Administrator of the Department issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Colby Younger Ruth ("Respondent"). The recommendation alleged Respondent engaged in dishonest or unethical practices in the insurance business within the previous ten (10) years.

On June 11, 2012, Respondent filed his answer to the Department's Recommendation. On June 19, 2012, the Administrator issued an Order Setting Hearing.

**In the Matter of:     Geary Securities, Inc. *fka* Capital West Securities, Inc.; Keith D.  
                              Geary; Norman Frager; and CEMP, LLC  
                              ODS File No. 09-141**

On March 8, 2010, the Administrator of the Department issued an Order Initiating Investigation against Geary Securities, Inc. and Keith D. Geary, both of Oklahoma City, Oklahoma. The Order was premised upon information that violations of the Act and/or the Rules may have occurred, in connection with the offer and/or sale of securities by Respondents.

On September 22, 2010, the Administrator of the Department issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Geary Securities, Inc. *fka* Capital West Securities, Inc.; Keith D. Geary; Norman Frager; and CEMP, LLC (collectively, "Respondents"). The Recommendation alleged Respondents violated Sections 1-401, 1-402 and/or 1-501 of the Act and 660:11-5-42 of the Rules, in connection with the offer and/or sale of securities in and/or from Oklahoma.

October 15, 2010, Respondents filed their answers and requested a hearing.

On November 9, 2010, the Administrator issued an order setting a hearing date of February 23, 2011, and appointing Bruce Kohl, of Santa Fe, New Mexico, as hearing officer.

On December 7, 2010, the Department issued discovery requests to Respondent Keith Geary. On December 14, 2010, the Hearing Officer filed an Agreed Scheduling Order. On December 22, 2010, the Department filed its preliminary list of witnesses and exhibits. On December 22, 2010, the Department received Keith Geary's response to the Department's discovery requests. On December 23, 2010, the Department received a request for production of documents from Geary Securities. On December 23, 2010, Respondents filed their preliminary list of witnesses and exhibits. On December 29, 2010, the Department received a second request for production of documents from Geary Securities.

On January 13, 2011, the Department responded to Geary Securities' second request for production of documents. On January 14, 2011, the Department responded to Geary Securities' first request for production of documents. On January 19, 2011, the Department filed an amended response to Geary Securities' first request for production of documents.

On February 14, 2011, an amended Scheduling Order was filed.

On March 1, 2011, Bank of Union, John Shelley, Mike Braun, and Tim Headington (Third Parties), filed a motion to quash subpoenas issued on behalf of the Geary Respondents and a request for a protective order. On March 7, 2011, the Department received a third request for production of documents from Geary Securities. On March 14, 2011, the Geary Respondents, joined by Respondent Norman Frager, filed a Motion to Strike Witnesses and Allegations, a Motion for Protective Order to Limit Scope of Depositions, Response and Objection to the Bank of Union's Motion to Quash, and an alternative Motion for Expedited Enforcement of Subpoena in the District Court. On March 15, 2011, the Department filed its response to the Geary Respondents' motions. On March 22, 2011, the Department responded to Geary Securities' third request for production of documents. On March 24, 2011, the Department filed a second amended response to Geary Securities' first request for production of documents. On March 24, 2011, the Hearing Officer entered orders denying the Third Parties' Motion to Quash and for Protective Order and an order denying Respondents' Motion to Strike Witnesses and Allegations, Motion for Protective Order to Limit Scope of Depositions, and Motion for Expedited Enforcement of Subpoena in the District Court. On March 25, the Department filed its final list of witnesses and exhibits. On March 25, 2011, the Geary Respondents filed an application for the judicial enforcement of subpoenas. On March 28, 2011, the Geary Respondents filed a motion for a preclusion order striking witnesses from the Department's final witness list based on the Department's non-compliance with the agreed amended scheduling order. On March 28, 2011, the Geary Respondents filed a Motion for Preclusion Order and Order Striking Witnesses and Allegations, and an Alternative Motion to Compel Production of Responsive Documents Wrongfully Withheld by the Department. On March 28, 2011, the Department filed its amended final list of witnesses. On March 28, 2011, the Geary Respondents filed their objection to the Department's amended final list of witnesses and renewed their request for a hearing on their motion for a preclusion order striking witnesses from the Department's final witness list.

On April 1, 2011, the Department filed its objection and response to the Geary Respondents' motion for a preclusion order striking witnesses from the Department's final witness list and their objection to the Department's amended final list of witnesses. On April 4,

2011, the Geary Respondents filed their reply to the Department's objection and response. On April 5, 2011, Norman Frager joined in the Geary Respondents' motions and objections filed March 28, 2011. On April 5, 2011, the Geary Respondents filed their joint final list of witnesses. On April 5, 2011, the Geary Respondents filed their joint application for modification of the scheduling order deadlines. On April 7, 2011, the Department filed its objection and response to the Geary Respondents' motion for preclusion order and order striking witnesses and allegations, and their alternative motion to compel production of responsive documents. On April 12, 2011, the Geary Respondents filed their reply to the Department's objection and response. On April 12, 2011, the Hearing Officer entered an order denying the Geary Respondents' motion for a preclusion and order striking witnesses from the Department's final witness list. On April 12, 2011, the Hearing Officer filed an Agreed Order Striking Scheduling Order Deadlines.

On May 6, 2011, a telephonic hearing was conducted relating to the discovery items in dispute. The Hearing Officer ruled that certain of the disputed items be submitted for his *in camera* inspection. On May 9, 2011, the Geary Respondents filed their response to the Department's first request for production of documents. On May 24, 2011, the Hearing Officer entered an Agreed Order relating to the procedures for the *In Camera* inspection. The Administrator subsequently determined that he would take no further action to enforce the subpoena issued to Tim Headington.

On July 13, 2011, the Geary Respondents filed a motion for reconsideration of the Administrator's refusal to proceed with enforcement of the Subpoena pursuant to the Order entered on March 24, 2011 by the Hearing Officer.

On August 1, 2011, the Geary Respondents filed an application to deem their motion for reconsidered confessed and granted. On August 4, 2011, the Administrator issued an order denying Respondents' application. On August 5, 2011, the Geary Respondents filed a motion for reconsideration and vacation of the order dated August 4, 2011. On August 5, 2011, the Geary Respondents filed an application for re-issuance of subpoenas to Tim Headington. On August 12, 2011, the Geary Respondents filed an application for the Administrator to take immediate action to enforce the District Court's order dated July 25, 2011, relating to the production of documents by Bank of Union, John Shelley and Mike Braun. On August 19, 2011, the Hearing Officer issued subpoenas to produce documents and to appear and testify to Tim Headington, David Tinsley, Earl Mills, Eldon Ventris, Jeff Wills, Ray Evans, and Steve Kotter.

On September 22, 2011, a Texas deposition subpoena was issued, on behalf of Respondents, to Tim Headington, a resident of Dallas, Texas. On September 27, 2011, John J. Schirger and Matthew W. Lytle, of the Kansas City law firm of Miller Schirger, LLC, filed a Motion for Temporary Admission and Entry of Appearance of Out of State Counsel. On September 28, 2011, Gary Bryant filed motions to associate counsel as to Mr. Schirger and Mr. Lytle.

On October 3, 2011, the Hearing Officer entered orders admitting John J. Schirger and Matthew W. Lytle to practice. On October 3, 2011, the Geary Respondents and Respondent Frager filed a motion for recusal of the Hearing Officer. On October 10, 2011, the Hearing

Officer issued deposition subpoenas to Michael Braun and John Shelley. On October 10, 2011, the Department filed its objection to the motion for recusal of the Hearing Officer. On October 19, 2011, the Geary Respondents filed their reply to the Department's objection to the recusal motion. On October 21, 2011, the Hearing Officer entered an order denying the Respondents' motion for his recusal. On October 31, 2011, the Hearing Officer overruled the Department's objections to the Geary Respondents' outstanding discovery requests.

On November 1, 2011, the Department filed its motion for a summary decision against Norman Frager. On November 8, 2011, Norman Frager filed a motion for an extension of time in which to respond to the Department's motion. The motion was granted. The Geary Respondents filed motions for a preclusion order and an order striking certain of the Department's witnesses and exhibits. On November 21, 2011, the Department filed its objection and response to the Geary Respondents' motion for a preclusion order and an order striking certain of the Department's witnesses, i.e. the Bank of Union Directors, and an exhibit, the Bank of Union Directors' Affidavit. On November 28, 2011, the Department filed its objection and response to the Geary Respondents' motion for a preclusion order and an order striking the Headington Guaranty Agreement. On November 28, 2011, the Geary Respondents filed their reply to the Department's objection and response to the motion for a preclusion order and an order striking the Department's witnesses, the Bank of Union Directors, and the Bank of Union Directors' Affidavit.

On December 1, 2011, Norman Frager filed his response to the Department's motion for a summary decision. On December 7, 2011, the Department filed its reply to Respondent Frager's response. On December 9, 2011, the Geary Respondents filed their reply to the Department's response to the motion for a preclusion order and an order striking the Headington Guaranty Agreement. On December 21, 2011, the Geary Respondents filed a motion to bifurcate and stay the net capital claims. On December 23, 2011, the Department filed its motion for a summary decision against the Geary Respondents. On December 23, 2011, Respondent Frager filed a motion to bifurcate and stay the claims that are also being addressed by FINRA. On December 28, 2011, the Geary Respondents filed a motion for an extension of time in which to respond to the Department's motion for a summary decision. On December 28, 2011, the Hearing Officer filed an order granting the Geary Respondents' motion for extension of time. On December 28, 2011, Respondent Frager filed a motion for sanctions.

On January 3, 2012, the Department filed its objection to the Geary Respondents' motions to bifurcate and stay the net capital claims. On January 9, 2012, the Department filed its objection to Respondent Frager's motion for sanctions. On January 10, 2012, the Geary Respondents and Respondent Frager filed their joint reply to the Department's objection to the motions to bifurcate and stay the net capital claims and a request for hearing on all pending motions. On January 11, 2012, the Department filed its response to the Respondents' request for a hearing on pending motions. On January 12, 2012, Respondent Frager filed his reply to the Department's objection to his motion for sanctions. On January 13, 2012, Respondent Frager withdrew his motion for sanctions without prejudice. The Hearing Officer set a hearing date for all pending motions. On January 17, 2012, the Geary Respondents filed a supplement to their motion for a preclusion order and an order striking the Headington Guaranty Agreement. On

January 23, 2012, the Department filed its response to the Geary Respondents' supplement to their motion for a preclusion order and an order striking the Headington Guaranty Agreement. On January 23, 2012, the Department filed its status report and proposed a hearing date. On January 30, 2012, the Hearing Office entered an agreed order concerning a revised briefing schedule.

On February 1, 2012, the Hearing Officer issued orders denying the Geary Respondents' motion to bifurcate and stay the net capital claims and Respondent Frager's motion to bifurcate and stay the claims also being addressed by FINRA. On February 3, 2012, the Geary Respondents filed their objection and response to the Department's motion for a partial summary decision. On February 8, 2012, the Hearing Officer issued orders denying the Geary Respondents' motions for preclusion orders and orders striking the Headington Guaranty Agreement, the testimony of the Bank of Union Directors, and the Bank of Union Directors' Affidavit. On February 17, 2012, the Bank of Union filed a Motion to Intervene. On February 17, 2012, the Department filed its reply to the Geary Respondents' objection and response to the Department's motion for a partial summary decision. On February 21, 2012, the Geary Respondents' filed their response to Bank of Union's motion to intervene. On February 21, 2012, the Hearing Officer issued deposition subpoenas to David Tinsley, Earl Mills, Eldon Ventris, Jeff Wills, Ray Evans, and Steve Kotter. On February 21, 2012, the Hearing Officer entered an order scheduling a hearing on Bank of Union's motion to quash the deposition subpoenas. On February 23, 2012, the Hearing Officer denied Bank of Union's motion to intervene. On February 27, 2012, Respondent Frager filed a supplemental response to the Department's motion for a summary decision and a motion to dismiss all allegations relating to the May 2009 net capital violations.

On March 5, 2012, the Bank of Union Directors filed their brief in support of their motion to quash the subpoenas issued, or in the alternative, for a protective order limiting the scope of the subpoenas. On March 7, 2012, the Department filed its response thereto. On March 9, 2012, the Geary Respondents filed their response. On March 12, 2012, the Hearing Officer filed an order scheduling a hearing on the motion to quash and for a protective order. On March 13, 2012, the Bank of Union Directors filed their reply brief to further support their motion. On March 16, 2012, the Hearing Officer denied the Bank of Union Directors' motion to quash the deposition subpoenas and granted the motion for a protective order. On March 21, 2012, the Department filed a motion for a protective order removing certain materials from the public record. On March 26, 2012, the Hearing Officer entered an Agreed Protective Order. On March 30, 2012, the Department filed a second amended final witness list. On March 30, 2012, the Department filed its status report and proposed hearing dates. On March 30, 2012, the Respondents filed a joint response to the Department's status report and proposed hearing dates.

On April 2, 2012, the Respondents filed their endorsement of the Bank of Union Directors as witnesses. The Respondents also filed a notice of application for judicial enforcement of the subpoenas issued to the Bank of Union Directors. On April 4, 2012, the Bank of Union Directors filed a Motion for Reconsideration of their motion to quash. The Respondents filed their response to the reconsideration motion later that same day. On April 5, 2012, the Administrator issued an order denying Respondents' application for judicial

enforcement of subpoenas. On April 10, 2012, the Bank of Union Directors filed their reply in support of their Motion for Reconsideration. On April 13, 2012, the Hearing Officer issued subpoenas for the depositions of Michael Shelley and Chris Martin. On April 13, 2012, the Department filed a request for hearing on the pending motions for summary decision. A hearing date was set. On April 13, 2012, the Hearing Officer entered a ruling stating he would delay entry of an order granting the Bank of Union Directors' motion for reconsideration. On April 17, 2012, the Geary Respondents filed a response to the Hearing Officer's ruling. On April 18, 2012, the Bank of Union Directors filed their reply. On April 23, 2012, the Geary Respondents and the Department entered into an agreement wherein Keith Geary agreed not to apply for registration and approval to act as a principal, officer or director of any broker-dealer registered, or required to be registered, under the Act or any successor to the Act, for a period of twenty-five months beginning on May 1, 2012. Geary Securities agreed not to withdraw, rescind or revoke its Form BDW filed on February 29, 2012. Geary Securities also agreed to submit a Form U-5 for each person currently registered as an agent of Geary Securities. On the same date, the Administrator issued an order implementing the provisions of the agreement, to include approval of the firm's request to withdraw its registration under the Act.

On May 16, 2012, the Hearing Officer issued an order denying the Department's motion for summary decision against Respondent Frager. On May 17, 2012, an amended Scheduling Order was filed. On May 24, 2012, Melvin R. McVay, Jr. and Jason M. Kreth, of Phillips Murrah P.C., filed their entries of appearance as counsel for Respondent Frager. On May 24, 2012, Respondent Frager filed a second witness list. On May 24, 2012, the Department filed a Motion to Strike the Witness List of Norman Frager and a Motion in Limine to Exclude Testimony of Department's Counsel and a Pershing Representative. On May 25, 2012, Respondent Frager filed a motion to continue the hearing on the merits scheduled on June 18th. On May 29, 2012, Respondent Frager filed his response to the Department's motion to strike his witness list and the motion in limine. On May 29, 2012, the Department filed its objection to the issuance of deposition subpoenas to Department counsel. On May 30, 2012, the Hearing Officer scheduled a hearing on Respondent Frager's motion to continue the hearing and the Department's motion to strike Frager's witness list and motion in limine. On May 31, 2012, the Department filed its response to Frager's motion to continue the hearing. On May 31, 2012, the Department filed its reply to Frager's response to the Department's motion to strike Frager's witness list and motion in limine. On May 31, 2012, Respondent Frager filed a supplement to his motion to continue the hearing on the merits. Respondent Frager filed his response to the Department's objection to the issuance of deposition subpoenas to Department counsel. On May 31, 2012, the Department filed a motion for reconsideration on the Hearing Officer's order denying the Department's motion for summary decision against Respondent Frager.

On June 7, 2012, the Hearing Officer entered orders granting Respondent Frager's motion to continue the hearing and granting, in part, the Department's motion to strike Frager's witness list. On June 7, 2012, the Department received discovery requests from Frager. On June 7, 2012, the Department filed its objection to Frager's request for a deposition subpoena to Carol Gruis as being filed out of time. On June 11, 2012, Frager filed an amended witness list. On June 15, 2012, Frager filed motions to strike the Department's motion for reconsideration or, in the alternative, to extend the deadline in which to respond. On June 21, 2012, the Department

responded to Frager's request for the production of documents. On June 25, 2012, the Department filed its objection to Frager's motion to strike the Department's motion for reconsideration.

		<b>FY-12</b>		<b>FY-11</b>	
		<b>Month</b>	<b>YTD</b>	<b>Month</b>	<b>YTD</b>
	g. Appeals from Final Orders	0	0	0	0
	1. Securities Act	0	0	0	0
	2. Business Opportunity Sales Act	0	0	0	0
	h. Civil Penalties - Amounts Collected	\$5,750.00	\$31,324.44	\$1.050	\$297,143.17
	1. Securities Act	\$5,750.00	\$31,324.44	\$1.050	\$297,143.17
	2. Business Opportunity Sales Act	\$0	\$0	\$0	\$0
	i. Administrative Costs - Amounts Collected	\$0	\$1,000	\$0	\$0
	1. Securities Act	\$0	\$1,000	\$0	\$0
	2. Business Opportunity Sales Act	\$0	\$0	\$0	\$0
	j. Civil Enforcement Activities				
	1. Securities Act				
	i. Subpoenas Issued	0	0	0	32
	ii. Civil Petitions Filed		2	0	2
	iii. Civil Trials Held	0	0	0	0
	iv. Criminal Referrals	0	0	0	0
	v. Civil Appeals Filed	0	0	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)		45	5	121
	2. Business Opportunity Sales Act				
	i. Subpoenas Issued	0	0	0	0
	ii. Civil Petitions Filed	0	0	0	0
	iii. Civil Trials Held	0	0	0	0
	iv. Criminal Referrals	0	0	0	0
	v. Civil Appeals Filed	0	0	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)	0	0	0	0

Civil Actions

SUMMARY

**Oklahoma Department of Securities *ex rel.* Irving-L. Faught, Administrator v.  
David Warren Harris  
Civil Case No. CJ-2012-2604**

On May 1, 2012, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against David Warren Harris alleging violations of Sections 1-301 and 1-402 of the Act. On May 22, 2012, P.R. Tirrell filed his entry of appearance as counsel for Defendant Harris and a request for an extension of time to file an answer.

On June 19, 2012, Defendant Harris filed his answer to the Department's Petition. On June 19, 2012, the Department received discovery requests from the Defendant.

		<b>FY-12</b>		<b>FY-11</b>	
		<b>Month</b>	<b>YTD</b>	<b>Month</b>	<b>YTD</b>
	k. Miscellaneous Activities				
	1. Public Information/Press Releases (copy attached)	0	0	0	0
	2. Trainings/Seminars Attended	1	8	3	29
	3. Coordinated Activities	0	0	0	0
<b>III.</b>	<b>Inquiries and Complaints</b>				
	a. Inquiries	4	62	3	44
	b. Referrals from Other Oklahoma Agencies	0	11	0	2
	c. Referrals from Out of State Agencies	0	4	0	2