

OKLAHOMA ABSTRACTORS BOARD  
DECLARATORY RULING  
June 17, 2014

Now on this 17<sup>th</sup> day of June, 2014, this matter comes on for hearing as to American Eagle Title & Abstract, L.L.C.'s request for a Declaratory Ruling pursuant to the Board's Rule OAC 5:2-3-6. American Eagle wants an interpretation as to the application of Board Rule OAC 5:11-5-3(d) Federal Court Certificate to its existing Certificate of Authority Numbered 0155 for Tulsa County and whether the "agreed" limitation for American Eagle not to perform federal certificates of October 16, 2012 is presently necessary or if it may be deleted.

As to this issue, the Board heard legal arguments or testimony from the following people:

- 1) Attorneys Ron Barber and Joe Fears, of Barber & Bartz, representing American Eagle Title & Abstract, L.L.C.
- 2) Jim Inhofe, of Tulsa Abstract & Title Company
- 3) Jim Cichon, of Smith Brothers Abstract & Title Co., L.L.C.

The Board reviewed the following items and makes the following findings and conclusions:

1. Pursuant to the Oklahoma Abstracting Act ("Act"), 1 O.S. 2011, §§ 20 through 43, the Oklahoma Abstractors Board is charged with the duty to regulate and issue certificates of authority, permits, and abstract licenses and promulgate and enforce rules necessary to implement the Act.
2. The Board may issue declaratory rulings under Board Rule OAC 5:2-3-6:
  - (a) Any person who may be directly affected by the existence or application of any of the public rules may request an interpretation or ruling regarding the application of such rule to a particular set of facts.
  - (b) The request shall be in writing and shall state the number and language of the rule and sufficient facts to support the request.
  - (c) The request shall be reviewed by the Board. The Board shall make a final determination of the interpretation or ruling. The final determination shall be furnished in writing within a reasonable time to the person making the request.
3. The Board amended OAC 5:11-5-3 (d) as to Federal court certificates, effective July 1, 2011:

Upon request of a consumer, a holder of a certificate of authority in Muskogee, Okmulgee, Oklahoma, and Tulsa counties may certify to the records of Final Rules effective July 1, 2011 the Clerk of the United States District Court and the Clerk of the United States Bankruptcy Court for such federal judicial districts located in such counties for the time period covered by the certification, that disclose:

- (1) executions, court proceedings, pending suits and bankruptcy proceedings in said courts affecting title to the subject property; and

(2) judgments or transcripts of judgments filed against any of the parties appearing within the chain of title.

4. Board minutes of its regular meeting on October 16, 2012 state, in part:

After hearing all parties, reviewing the documents and having discussion, Gary Baer made the following motion:

I move that the Board now find that applicant American Eagle has complied with the requirements for a Certificate of Authority to engage in the business of abstracting in Tulsa County, Oklahoma, including the following:

- 1) Complied with the Oklahoma Abstractors Act and Rules of the Board;
- 2) Paid the applicable fee of \$3,200.00;
- 3) Provided adequate E&O insurance coverage of \$1,000,000.00;
- 4) Provided a Certificate of Deposit for its County Records Bond in the sum of \$100,000.00;
- 5) Provided proof that an adequate abstract plant is available for use;
- 6) The name of the company is not deceptively similar to other certificate of authority holders;
- 7) The applicant has an actual physical presence in Tulsa County; and
- 8) That the applicant has agreed to not issue Federal Court Certificates or to certify as to Federal Court proceedings,

and that the Board should grant American Eagle Title & Abstract, LLC, a Certificate of Authority to engage in the business of abstracting in Tulsa County, Oklahoma. . . . Motion approved.

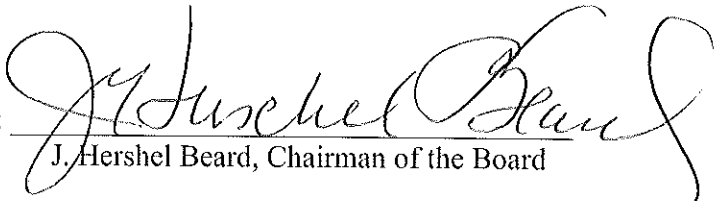
5. The Inspection Report for Application for Certificate of Authority, for American Eagle Title & Abstract, Tulsa County, presented at the October, 2012 meeting has language "In the event the certificate holder desires to begin producing Federal Court Certificates at a later time, they must meet the Board's requirements and be approved by the Board before doing so."

#### DECLARATORY RULING

After hearing all parties, reviewing the documents and having discussion, a motion was made and approved by the Board that American Eagle's agreement not to issue Federal Court Certificates or to certify as to Federal Court proceedings as offered to the Board on October 16, 2012 is not a present requirement to perform Federal court certificates under Board Rule OAC 5:11-5-3 (d), and the restriction is hereby lifted, effective today.

IT IS SO ORDERED.

By:

  
J. Hershel Beard, Chairman of the Board