

Ex Parte

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Scott G. Weber, Clerk, Clark Co.

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SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

In re:

AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC.

Case No. 19-2-01458-06

DECLARATION OF JOHN R. KNAPP, JR. IN SUPPORT OF EX PARTE MOTION TO APPROVE RECEIVER’S PROPOSED SETTLEMENTS WITH CLASS ACTION PLAINTIFFS, BEATTIE PLAINTIFFS, AND DAVIS WRIGHT TREMAINE LLP

I, John R. Knapp, Jr., state and declare as follows:

1. I am a partner with the law firm of Miller Nash LLP in Seattle, Washington, and counsel to Clyde A. Hamstreet & Associates, LLC, the duly appointed general receiver herein (the “Receiver”). I am a citizen of the United States, over the age of 18 years, and competent to testify herein. I make this declaration from my personal knowledge in support of the Ex Parte

1 Motion to Approve Receiver’s Proposed Settlements with Class Action Plaintiffs, Beattie
2 Plaintiffs, and Davis Wright Tremaine LLP (the “Motion”).

3 2. On November 4, 2022, on behalf of the Receiver, I caused the Receiver’s Notice
4 of Proposed Settlements with Class Action Plaintiffs, Beattie Plaintiffs, and Davis Wright
5 Tremaine LLP (the “Notice”) to be posted to the Receiver’s website in accordance with the
6 Settlement Procedures Order (as defined in the Motion). A copy of the Notice is attached hereto
7 as Exhibit A. No objections to the Notice were received within 14 days after the Notice was
8 posted.

9 I declare under penalty of perjury under the laws of the State of Washington that the
10 foregoing is true and correct.

11 EXECUTED this 22nd day of November, 2022, at Seattle, Washington.

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John R. Knapp, Jr.

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Honorable David E. Gregerson

6 Pages

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

In re:

AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC.

Case No. 19-2-01458-06

RECEIVER’S NOTICE OF PROPOSED SETTLEMENTS WITH CLASS ACTION PLAINTIFFS, BEATTIE PLAINTIFFS, AND DAVIS WRIGHT TREMAINE LLP

Clyde A. Hamstreet & Associates, LLC, the duly appointed general receiver herein (the “Receiver”), over American Eagle Mortgage 100, LLC; American Eagle Mortgage 200, LLC; American Eagle Mortgage 300, LLC; American Eagle Mortgage 400, LLC; American Eagle Mortgage 500, LLC; American Eagle Mortgage 600, LLC; American Eagle Mortgage Mexico 100, LLC; American Eagle Mortgage Mexico 200, LLC; American Eagle Mortgage Mexico 300,

1 LLC; American Eagle Mortgage Mexico 400, LLC; American Eagle Mortgage Mexico 500,
2 LLC; American Eagle Mortgage Mexico 600, LLC; American Eagle Mortgage I, LLC;
3 American Eagle Mortgage II, LLC; and American Eagle Mortgage Short Term, LLC (the
4 “Receivership Pools”). gives this notice in accordance with paragraph 1 of the Order
5 Establishing Procedures for Seeking Approval of Proposed Settlements dated March 5, 2021 (the
6 “Settlement Procedures Order”).

7 The Receiver proposes to enter into (1) a Class Action Settlement Agreement (the “Class
8 Action Agreement”) with Davis Wright Tremaine LLP (“DWT”) and Diane Anderson, Trustee
9 of the Diane L. Anderson Revocable Trust; Bonnie Buckley, Trustee of The Bonnie K. Buckley
10 Ira; Carl and Kirby Dyess, Trustees of The Dyess Family Trust; Peter Koubeck, an individual
11 and Trustee of Peter L. Koubeck Ira; Michael Peterson, Trustee of the Michael T. Peterson Ira;
12 and Ed Wilson (“Class Action Plaintiffs”), and (2) a supplemental settlement agreement between
13 the Receiver and the Class Action Plaintiffs (the “Class Action Supplemental Agreement”), in
14 connection with resolution as to DWT of the putative class action known as *Diane Anderson et*
15 *al. v. Davis Wright Tremaine LLP et al.*, which is pending in the United States District Court for
16 the District of Oregon (“District Court”) as Case No.: 3:20-cv-01194-AC (the “Class Action”).

17 The Receiver also proposes to enter into a Supplemental Settlement Agreement (the
18 “Beattie Supplemental Agreement”) with another group of individual plaintiffs, Sherry Beattie;
19 Barbara Fite; Belinda Franke; Dean Franke; Robert Kalmbach; Patricia Witt; RSM Revocable
20 Trust, Robert and Gay MacLellan as trustees; and M2M Development Inc. 401k PSP, and Robert
21 and Gay MacLellan as trustees (“Beattie Plaintiffs”), in connection with resolution as to DWT of
22 a separate action they filed against DWT entitled *Sherry Beattie, et al. v. Davis Wright Tremaine*
23 *LLP, et al.*, which is pending in the Circuit Court for the State of Oregon, Multnomah County
24 (“Oregon State Court”), as Case No. 20CV09419 (the “Beattie Action”).

25 The following information regarding the proposed settlement is provided pursuant to the
26 Settlement Procedures Order:

1 1. **Description of the Relationship.** Class Action Plaintiffs filed the Class Action,
2 which is pending in District Court. In the Class Action, Class Action Plaintiffs, acting for
3 themselves and on behalf of similarly situated putative class members, allege, among other
4 things, that DWT materially aided in the sales of securities relating to the Receivership Pools to
5 Class Action Plaintiffs in violation of the Oregon securities law. DWT denies those allegations.

6 Beattie Plaintiffs have filed the Beattie Action in Oregon State Court. Beattie Plaintiffs
7 also allege that DWT materially aided in the sales of securities relating to the Receivership Pools
8 to Beattie Plaintiffs in violation of the Oregon securities law. DWT denies those allegations.

9 The Receiver was appointed by this Court in Case No. 19-2-01458-06 (the “Receivership
10 Case”) and has filed various actions adjunct to the Receivership Case. The Receiver has not
11 filed or asserted any claims against DWT and has represented to DWT that the Receiver has no
12 claims against DWT.

13 Class Action Plaintiffs, Beattie Plaintiffs, DWT, and the Receiver each participated in
14 mediation before Robert A. Meyer, JAMS Mediation, Arbitration and ADR Services, on
15 December 1, 2021. Following good-faith, adversarial, and arm’s-length negotiations, Class
16 Action Plaintiffs, DWT, and the Receiver reached the compromises set forth in the Class Action
17 Agreement, including a release of DWT by the Receiver in consideration of a payment of
18 \$45,000.00 from amounts being paid by DWT. Under the Class Action Supplemental
19 Agreement, the Class Action Plaintiffs will pay the Receiver \$36,818.89 of that amount out of
20 the funds they receive from DWT.

21 In the same mediation, and at the same time that Class Action Plaintiffs and DWT
22 reached a compromise, Beattie Plaintiffs reached a compromise with DWT with respect to the
23 Beattie Action. Those parties have also executed a settlement agreement (the “Beattie
24 Agreement”). The Receiver is not a party to and is therefore not seeking this Court’s approval of
25 the Beattie Agreement. However, under the Beattie Supplemental Agreement, of which the
26 Receiver does seek this Court’s approval, Beattie Plaintiffs will pay the Receiver \$8,181.11 from

1 the funds they receive from DWT in order to satisfy the remainder of the \$45,000.00 the
2 Receiver requires in order to grant the release of DWT under the Class Action Agreement.

3 The Receiver believes that the release of DWT provided by the Receiver in the Class
4 Action Agreement, along with receipt of \$45,000.00 thereunder as allocated between Class
5 Plaintiffs and Beattie Plaintiffs under the Class Supplemental Agreement and the Beattie
6 Supplemental Agreement, is in the best interests of the Receivership Pools.

7 2. **Relationship to the Pools, American Equities, Inc., or Ross Miles.** DWT was
8 counsel to American Equities, Inc., American Eagle Mortgage Management, LLC, and the
9 Receivership Pools prior to the appointment of the Receiver. Class Plaintiffs and Beattie
10 Plaintiffs invested in the Receivership Pools.

11 3. **Amounts to Be Received by the Receiver.** Under the Class Supplemental
12 Agreement and the Beattie Supplemental Agreement, respectively, as consideration for the
13 Receiver's entry into the Agreement and granting the release to DWT, Class Plaintiffs will pay
14 the Receiver \$36,818.89 and Beattie Plaintiffs will pay the Receiver \$8,181.11, for a total of
15 \$45,000.00. The Receiver believes that settlement for this amount is fair and reasonable. The
16 Receiver has not identified any claims against DWT, but believes it is in the best interests of the
17 receivership estate and investors for the Class Action and Beattie Action to be resolved as to
18 DWT and provide certainty regarding the remaining amounts of the allowed claims of investors
19 in the receivership, which will be reduced by the amounts that Class Plaintiffs and Beattie
20 Plaintiffs receive from DWT pursuant to the Class Action Agreement and the Beattie Agreement.

21 4. **Summary of the Material Terms and Conditions of the Settlements.** The
22 material terms and conditions of the settlements, with respect to the Receiver and as set forth
23 more fully in the Class Action Agreement, the Class Action Supplemental Agreement, and the
24 Beattie Supplemental Agreement, include the following:

25 a. Payment to be made by DWT in the amount of \$3,677,000 for the benefit
26 of the Class Action Plaintiffs;

1 b. Release to be granted by the Class Action Plaintiffs of DWT (including its
2 predecessors, successors and assigns, and its past, present and future officers, directors,
3 members, employees, agents, representatives, attorneys, partners, shareholders, principals,
4 associates, senior counsel, insurers, underwriters and claims administrators), subject to the
5 limitations set forth in the Class Action Agreement, upon occurrence of several conditions,
6 including approval by the District Court and the Superior Court;

7 c. Release to be granted by the Receiver, on behalf of the Receivership
8 Pools, of DWT (including its predecessors, successors and assigns, and its past, present and
9 future officers, directors, members, employees, agents, representatives, attorneys, partners,
10 shareholders, principals, associates, senior counsel, insurers, underwriters and claims
11 administrators), subject to the limitations set forth in the Class Action Agreement, upon
12 occurrence of several conditions, including approval by the District Court and the Superior
13 Court.

14 d. Class Action and Class Action Supplemental Agreement to become
15 effective only upon District Court and this Court's approval, among other conditions.

16 e. Beattie Supplemental Agreement to become effective only upon this
17 Court's approval, among other conditions.

18 f. Class Plaintiffs to pay the Receiver \$36,818.89; and

19 g. Beattie Plaintiffs to pay the Receiver \$8,181.11.

20 YOU ARE NOTIFIED that unless a creditor or other party in interest notifies the
21 Receiver and the Receiver's attorneys, in writing within 14 calendar days after the date of this
22 notice, that such party objects to the proposed settlement, the Receiver will apply for an *ex parte*
23 order approving the settlements described above. Objections to the proposed settlements must
24 refer to this notice and be delivered or sent, so as to be actually received by the Receiver within
25 14 calendar days after the date of this notice, as follows:

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AEM Receiver
c/o Miller Nash Graham & Dunn LLP
Attn: John R. Knapp, Jr.
2801 Alaskan Way, Suite 300
Seattle, Washington 98121
Email: john.knapp@millernash.com
Email: AEMReceiver@Hamstreet.net

DATED this 4th day of November, 2022.

MILLER NASH LLP

/s/ John R. Knapp, Jr.
John R. Knapp, Jr., P.C., WSB No. 29343

Attorneys for Receiver
Clyde A. Hamstreet & Associates, LLC