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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

EX PARTE MOTION TO APPROVE RECEIVER’S PROPOSED SETTLEMENTS WITH CLASS ACTION PLAINTIFFS, BEATTIE PLAINTIFFS, AND DAVIS WRIGHT TREMAINE LLP

I. RELIEF REQUESTED

Clyde A. Hamstreet & Associates, LLC, the duly appointed general receiver herein (the “Receiver”), respectfully moves for an *ex parte* order approving its proposed Class Action Settlement Agreement (the “Class Action Agreement”) with Davis Wright Tremaine LLP (“DWT”) and Diane Anderson, Trustee of the Diane L. Anderson Revocable Trust; Bonnie Buckley, Trustee of The Bonnie K. Buckley IRA; Carl and Kirby Dyess, Trustees of The Dyess

1 Family Trust; Peter Koubeck, an individual and Trustee of Peter L. Koubeck IRA; Michael
2 Peterson, Trustee of the Michael T. Peterson IRA; and Ed Wilson (“Class Action Plaintiffs”),
3 and (2) a supplemental settlement agreement between the Receiver and the Class Action
4 Plaintiffs (the “Class Action Supplemental Agreement”), in connection with resolution as to
5 DWT of the putative class action known as Diane Anderson et al. v. Davis Wright Tremaine LLP
6 et al., which is pending in the United States District Court for the District of Oregon as Case No.:
7 3:20-cv-01194-AC.

8 The Receiver also requests approval of a Supplemental Settlement Agreement (the
9 “Beattie Supplemental Agreement”) with another group of individual plaintiffs, Sherry Beattie;
10 Barbara Fite; Belinda Franke; Dean Franke; Robert Kalmbach; Patricia Witt; RSM Revocable
11 Trust, Robert and Gay MacLellan as trustees; and M2M Development Inc. 401k PSP, and Robert
12 and Gay MacLellan as trustees, in connection with resolution as to DWT of a separate action
13 they filed against DWT entitled Sherry Beattie, et al. v. Davis Wright Tremaine LLP, et al.,
14 which is pending in the Circuit Court for the State of Oregon, Multnomah County, as Case No.
15 20CV09419.

16 **II. STATEMENT OF FACTS**

17 On May 10, 2019, the Receiver was appointed pursuant to the Court’s Order Appointing
18 General Receiver.

19 On March 5, 2021, the Court entered the Order Establishing Procedures for Seeking
20 Approval of Proposed Settlements (the “Settlement Procedures Order”). The Settlement
21 Procedures Order provides as follows:

22 In situations where the Receiver or other party to a settlement
23 desires an order approving a settlement, the Receiver shall give
24 creditors and other parties in interest at least fourteen (14) calendar
25 days’ notice of the proposed settlement by posting on the
26 Receiver’s website, www.aeminvestors.com, and by emailing to
those persons who have officially requested electronic service of
notices and other papers filed in this proceeding, a notice
containing the following information: (a) a description of the loan,
claim, or other nature of the relationship between the Receiver and

1 each other party to the proposed settlement; (b) the relationship, if
2 any, of each other party to the Assignors, American Equities, Inc.,
3 or Ross Miles; (c) the amount to be received or paid by the
4 Receiver; and (d) a summary of the material terms and conditions
5 of the proposed settlement. If the Receiver gives such notice, and if
6 no creditor or other party in interest notifies the Receiver and the
7 Receiver's attorneys, Miller Nash Graham & Dunn LLP, in writing
and to the mailing addresses or email addresses stated in such
notice, within fourteen (14) calendar days after such notice is so
given that such party objects to the proposed settlement, the
Receiver may apply for an *ex parte* order approving the settlement
described in such notice.

8 (Settlement Procedures Order para. 1, at 2.)

9 On November 4, 2022, the Receiver caused the Receiver's Notice of Proposed
10 Settlements with Class Action Plaintiffs, Beattie Plaintiffs, and Davis Wright Tremaine LLP (the
11 "Notice") to be posted to the Receiver's website in accordance with the Settlement Procedures
12 Order. A copy of the Notice is attached to the Declaration of John R. Knapp, Jr. (the "Knapp
13 Decl.") as Exhibit A. No objections to the Notice were received within 14 calendar days after the
14 Notice was posted. Accordingly, the Receiver is seeking an order approving the Class Action
15 Agreement, the Class Action Supplemental Agreement, and the Beattie Supplemental Agreement
16 (collectively, the "Agreements"). The Notice contains a summary of the material terms and
17 conditions of the Agreements.

18 **III. EVIDENCE RELIED UPON**

19 The Receiver relies on the Knapp Decl. and the files and records herein.

20 **IV. LEGAL ISSUE**

21 Should the Court enter an *ex parte* order approving the Agreements?

22 **V. AUTHORITY AND ARGUMENT**

23 The Court should approve the Agreements. The Receiver has provided 14 calendar days'
24 notice of the Agreements in accordance with the Settlement Procedures Order, and no objections
25 have been received. The Agreements will become effective only upon entry of an order of this
26

1 Court approving the Agreements, among other conditions. A proposed *ex parte* order is
2 submitted contemporaneously herewith.

3 WHEREFORE, the Receiver respectfully requests that the Court grant this motion and
4 such other relief as is just and proper.

5 DATED this 22nd day of November, 2022.

6 MILLER NASH LLP

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9 John R. Knapp, Jr., P.C., WSB No. 29343
10 Joseph Vance, P.C., WSB No. 25531

11 Attorneys for Receiver
12 Clyde A. Hamstreet & Associates, LLC