

July 27, 2023

The Honorable David E. Gregorson
Clark County Superior Court
1200 Franklin St.
Vancouver, WA 98660

**COPY
ORIGINAL FILED
JUL 27 2023
Scott G. Weber, Clerk, Clark Co.**

RE: Case No. 19-2-01458-06
American Eagle Mortgage 100, et al (AEM)

Dear Judge Gregorson,

I have been informed that if I have any objection or response to the pending motion I must file it with the Court and serve it on the receiver and their counsel on or before August 4, 2023. My interest in this matter stems from investments that my wife and I, as well as a family partnership involving all of my wife's four siblings and their spouses made with AEM. I am not an attorney and I am not schooled in procedural niceties involved in civil practice. I will do my best to follow procedure with regard to this letter to the Court by filing it with the clerk and giving appropriate notice by mailing a copy of this letter to the Receiver and their Counsel.

I have significant concerns with the distribution methodology that the Receiver (Hamstreet) is requesting the court approve under the motion before the Court.

- I think it is very admirable that Hamstreet and Associates in concert with Miller Nash LLP attorneys were able to pursue and negotiate a settlement agreement with regulated financial institutions that clearly were aware or should have been aware of fraudulent activities, but did not report these issues to the proper authorities concerning AEM proprietors.
- When this fraud was finally identified and the malfeasance or misfeasance perpetrated against the interests of AEM investors was brought to light, I reluctantly agreed with the proposed "Money In Money Out" (MIMO) distribution of dollars retrieved. Ultimately, I recognized that as a long-term investor my early returns and those of the members of the Weiss Family Partnership, of which I am a part, were likely "earned" or paid as part of the methodology of promoting this long game Ponzi scheme to widen the pool of investors. Therefore, based on the fraud scheme used by the AEM leadership and the fact those monies retrieved were obtained from the Hamstreet's sale of properties, the initial MIMO distribution plan, while painful, was equitable to all parties.
- The distribution of money that is now being considered for approval under the motion before the court is from money that is not connected to the properties, but is

essentially a settlement based on likely or projected punitive damages for the failure of these financial institutions to report improprieties committed by AEM to regulatory agencies when they knew or should have known that *all of the AEM investors* were being harmed. For this reason, I object to the MIMO distribution plan being used to distribute these new funds from the settlement. Simply put, the MIMO distribution plan does not acknowledge the time value of my original investment and ongoing investment. In addition, there is no accounting for the fact that those investors that received the initial MIMO distributions have been able to benefit from the funds they received as a redress for their loss based on the time value of the return of whatever portion of their original principal dollars invested.

The proposed motion seems unfair to me, and other investors similarly situated, because the monies from this settlement have been obtained by Hamstreet from TRUSTED, ACCOUNTABLE, AND REGULATED entities such as Pacific Premier and Riverview Banks.

Hamstreet has characterized distribution of the funds that are the subject of this motion as “returning” money to the investors as if this money’s source were from the sale or liquidation of investment properties. This simply isn’t true. The proposed distribution does not acknowledge the time value of my original and ongoing investment. The entities that have provided the funds that are now to be distributed failed all of the investors equally. Therefore, distributions of this settlement should be done on a pro rata formula that recognizes the amount of investment made and the calculated time value of those investments.

I request that the Court require Hamstreet to reformulate the plan for distribution to recognize the time value of all of the investments made by all of the investors. It appears that this is the fairest way to achieve equity among all of the victims of the fraud involved in this case.

Sincerely,

David W. Kelly