
In the Matter of the Rehabilitation of:

Segregated Account of Ambac Assurance
Corporation

Case No. 10 CV 1576

FILED
JAN 20 2017

DANE COUNTY CIRCUIT COURT

**ORDER DENYING THE MOTION TO RECONSIDER OF MONTEREY BAY
MILITARY HOUSING, LLC AND MONTEREY BAY LAND, LLC, AND
CLARIFYING PROCEDURES FOR DISCOVERY**

Pursuant to the Motion to Reconsider this Court's prior Order dated November 23, 2016 filed by Monterey Bay Military Housing, LLC and Monterey Bay Land, LLC, that ordered a subpoena *duces tecum* served on the Office of the Commissioner of Insurance of the State of Wisconsin ("OCI") quashed, for the reasons set forth on the record at the motion hearing held by the Court on January 6, 2017, it is HEREBY ORDERED:

1. The Motion to Reconsider is DENIED; the subpoena *duces tecum* issued by Monterey Bay Military Housing, LLC and Monterey Bay Land, LLC is quashed and no further response to the subpoena *duces tecum* by OCI is necessary;
2. To effectuate the decision of the Court of Appeals in *Nickel v. Wells Fargo Bank, et al.*, 13 WI App 129, ¶ 113, and Chp. 645, WIS. STATS. it is further ordered:
 - a. Any interested party, or other person or entity, seeking to obtain discovery relating to these Rehabilitation Proceedings must first comply with this Court's April 5, 2016 Order and then further demonstrate that the proposed discovery is not contrary to *Nickel v. Wells Fargo Bank, et al.* and is not oppressive or unreasonable;
 - b. Any subpoena for discovery from OCI or the Rehabilitator relating to these Rehabilitation Proceedings presented to the clerk of circuit court shall be processed in the normal course and then forwarded to this Rehabilitation Court, as the court with exclusive jurisdiction over these Rehabilitation Proceedings, where it shall be immediately quashed;
 - c. Any interested party, or other person or entity, that has had a subpoena quashed may request a hearing;

- d. Any discovery that does not comply with this Court's April 5, 2016 Order and/or *Nickel v. Wells Fargo Bank, et al.*, may, by further Order of the Court, be subject to contempt, sanctions, or an award of fees and costs.
3. The Rehabilitator may file a supplement to its previously filed Verified Summary of Fees and Costs to include expenditures incurred to respond to the Motion to Reconsider and prepare for and attend the motion hearing, which will be awarded absent specific objections and the filing of a request for hearing within ten (10) days thereafter.

Dated this 20 day of January, 2017

BY THE COURT:

By: 

Honorable Richard G. Niess
Dane County Circuit Court Judge



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RECEIVED

JAN 12 2017

DANE COUNTY CIRCUIT COURT

January 12, 2017

VIA MESSENGER

Hon. Richard G. Niess
Dane County Courthouse
215 S Hamilton St #1000
Madison, WI 53703

Re: *In re the Matter of the Rehabilitation of: Segregated Account of Ambac Assurance Corp.*; Dane County Circuit Court Case No. 10-CV-1576

Dear Judge Niess:

Enclosed for filing in the above-referenced matter is an original and copy of a proposed Order Denying the Motion to Reconsider of Monterey Bay Military Housing, LLC and Monterey Bay Land, LLC, and Clarifying Procedures for Discovery. If the Order is acceptable, and there are no objections within five (5) days, please sign the Order and return a conformed copy in the enclosed, self-addressed, postage paid envelope.

By copy of this letter, all counsel of record is being served via Electronic Mail with a copy of these filings. Please contact me with any questions.

Very truly yours,

MICHAEL BEST & FRIEDRICH LLP

John D. Finerty, Jr.

JDF:sll

Enclosures

cc: Ann Ustad Smith, Esq. (via Electronic Mail, w/enc.)
All counsel of record (via Electronic Mail, w/enc.)

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