

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KELLER ASSOCIATES, INC., an Idaho
Corporation,

Plaintiff,

v.

TETON VALLEY GOLF ASSOCIATES,
LP, *et al.*,

Defendants.

Case No. CV 09-313-S-BLW

**MEMORANDUM DECISION
AND ORDER**

INTRODUCTION

The Court has before it Defendants Hopkins Growth Fund, LLC, Hopkins Northwest Fund, LLC, and Hopkins Mortgage Fund, LLC (“Hopkins”) Motion to Sever and Remand (Docket No. 13). For the reasons explained below, the Court will grant the motion.

ANALYSIS

In its motion, Hopkins asks the Court to sever Keller Associates, Inc.’s (“Keller”) claim against the Federal Deposit Insurance Corporation in its capacity as Receiver for Defendant First Bank of Idaho (“FDIC-R”) from the claims against Hopkins and the remaining defendants. Hopkins also asks the Court to remand the severed claims back to the Seventh Judicial District Court of Idaho where Keller

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filed this action.

Earlier, Keller requested an extension of time to respond to Hopkins' motion so that it could effectuate a settlement with the FDIC-R. That motion was granted. (Docket Nos. 15.) Keller now represents to the Court that it has reached a settlement with FDIC-R in this matter, and that it will submit settlement papers within a matter of days. Keller also filed a non-opposition to the motion to sever and remand. No other parties responded to the motion to sever and remand.

Additionally, this case had a court-ordered stay in effect up to and including the earlier of: (1) 180 days from the date Keller filed a claim with FDIC-R; or (2) 10 days from the date FDIC-R tendered a final written determination upon Keller's claim. (Docket No. 12.) On October 30, 2009, Keller notified the Court that it had submitted its administrative claim against FDIC-R. (Docket No. 10.) Therefore, the stay terminated no later than April 27, 2010, 180 days after Keller notified the Court that it filed a claim with FDIC-R.

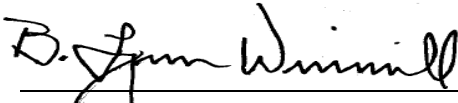
Accordingly, the Court finds good cause to grant Hopkins' motion to sever and remand the severed claims back to State Court. The Court will retain jurisdiction over Keller's claim against FDIC-R, with the understanding that it will dismiss the claim upon receipt of the parties's settlement documents.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Defendants Hopkins Growth Fund, LLC; Hopkins Northwest Fund, LLC; and Hopkins Mortgage Fund, LLC's Motion to Sever and Remand (Docket No. 13) shall be, and the same is hereby, GRANTED. Keller's claims against all Defendants except its claim against FDIC-R are hereby severed and remanded to the Seventh Judicial District Court, in and for the County of Teton.



DATED: **May 24, 2010**


Honorable B. Lynn Winmill
Chief U. S. District Judge