

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BCS SERVICES, INC., et al.,)	
)	
Plaintiffs,)	
v.)	No. 07 C 1367
)	Consolidated with No. 05 C 4095
)	
HEARTWOOD 88, LLC, et al.,)	Chief Judge James Holderman
)	
Defendants.)	

MOTION FOR ENTRY OF FINAL JUDGMENT

Plaintiffs Phoenix Bond & Indemnity Co. and BCS Services, Inc. respectfully move this Court pursuant to Federal Rule of Civil Procedure 58(d) to enter final judgment on a separate document.

Rule 58 requires all judgments (with exceptions not relevant here) to be set forth on a separate document. *See* Fed. R. Civ. P. 58(a). The purpose of this requirement is, among other things, to ensure that the time for appeal does not linger indefinitely. *See* Fed. R. Civ. P. 58 Advisory Committee Notes (2002 Amends.). Federal Rule of Appellate Procedure 4(a) conditions the filing of a Notice of Appeal on the district court’s entry of final judgment, and appeals of orders that do not comply with Rule 58 have been dismissed for want of appellate jurisdiction. *See, e.g.,* *Foremost Sales Promotions, Inc. v. Director, Bureau of Alcohol, Tobacco and Firearms*, 812 F.2d 1044, 1045 (7th Cir. 1987); *Rappaport v. United States*, 557 F.2d 605, 605-06 (7th Cir 1977).

On August 24, 2010, the Court entered a minute order (the “8-24 Order”) granting all pending motions for summary judgment filed by various defendants. (Dkt. No. 816)¹ The 8-24 Order states, among other things, “[w]ritten opinion to follow within a few days.” The 8-24 Order, on its face, adjudicates all claims as to all parties but does not order the entry of judgment.

Entry of a final judgment is necessary here because the 8-24 Order does not satisfy Rule 58. As the Seventh Circuit has recently noted, “[t]he grant of a motion for summary judgment is not one of the exceptions to the separate document requirement listed in Rule 58(a), so a separate document [is] required in [such a] case to have a proper Rule 58 judgment.” *Perry v. Sheet Metal Workers’ Local No. 73 Pension Fund*, 585 F.3d 358, 361 (7th Cir. 2009). *See also Rappaport*, 557 F.2d at 605-06 (distinguishing a “one sentence minute order ... ruling on a motion for summary judgment” from a separate document that complies with Rule 58). The fact that the 8-24 Order may envision or direct a judgment is likewise insufficient for purposes of Rule 58. *See id.*

¹ The Court entered a corresponding minute order in the consolidated case on the same day granting motions for summary judgment that were pending in that case. (Dkt. No. 657 in Case No. 05-C-4095.)

WHEREFORE, Plaintiffs BCS Services, Inc. and Phoenix Bond & Indemnity Co. respectfully request the Court enter final judgment pursuant to Fed. R. Civ. P. 58.

Dated: September 1, 2010

Respectfully submitted,

PLAINTIFFS PHOENIX BOND & INDEMNITY
CO. and BCS SERVICES, INC.

By: /s/ Jonathan S. Quinn
One of Their Attorneys

Lowell E. Sachnoff (ARDC No. 2438062)
Jonathan S. Quinn (ARDC No. 6200495)
John W. Moynihan (ARDC No. 6212061)
Andrew L. Mathews (ARDC No. 6279672)
REED SMITH LLP
10 South Wacker Drive
Chicago, IL 60606

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2010, a copy of the foregoing **Plaintiffs' Motion For Entry Of Final Judgment**, was filed electronically. Notice of this filing will be sent by e-mail to the following parties by operation of the Court's electronic filing system [or by U.S. Mail, postage pre-paid, to anyone unable to accept electronic filing]. Parties may access the filing through the Court's system.

<p><i>Counsel for Defendants John Bridge; CCPI, LLC; Kenneth Rochman; BRB Investments, LLC; CCJ Investments, LLC; CMS Services, LLC; Jesse Rochman; Corinne Rochman; Sabre Group, LLC; Barrett Rochman; Christopher Rochman; SI Boo, LLC; SI Securities Management, Inc.; SI Securities, LLC; Kevin Sierzega; Aztek Partners, LLC; Chonus, Inc. and Gregory Bingham</i></p>	<p>Harold L. Moskowitz LAW OFFICES OF HAROLD MOSKOWITZ 55 West Monroe, Suite 1100 Chicago, Illinois 60603 (312) 977-0223 hlmatty@aol.com</p> <p>Donald B. Levine Saskia Nora Bryan LATIMER LEVAY & JURASEK LLC 55 West Monroe Street, Suite 1100 Chicago, Illinois 60603 (312) 422-8000 dlevine@lljlaw.com blevay@lljlaw.com sbryan@lljlaw.com</p>
<p><i>Counsel for Defendants Jeffrey Bridge; Regal One, LLC; Jason Baumbach; Optimum Financial, Inc.; Carpus Investments, LLC; Frances Alexander; Georgetown Investors, LLC; Bamp, LLC; Anthony DeLaurentis; Richarony, LLC and Richard Turer</i></p>	<p>Elisha S. Rosenblum Clifford G. Kosoff O'HALLORAN, KOSOFF, GEITNER & COOK, P.C. 650 Dundee Road, Suite 475 Northbrook, Illinois 60062 (847) 291-0200 esrosenblum@okgc.com ckosoff@okgc.com</p>

<p><i>Counsel for Defendants Heartwood 88, LLC and BankAtlantic</i></p>	<p>Christopher K. Meyer SIDLEY AUSTIN LLP One South Dearborn Street Chicago, Illinois 60603 (312) 853-7000 cmeyer@sidley.com</p> <p>Robert A. Holland SIDLEY AUSTIN LLP 555 West Fifth Street, Suite 4000 Los Angeles, California 90013 (213) 896-6000 rholland@sidley.com</p> <p>Ana T. Barnett STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A. 150 West Flagler Street, Suite 2200 Miami, Florida 33130 (305) 789-3514 abarnett@swmwas.com</p>
<p><i>Counsel for Defendants Sass Muni-IV, LLC; Sass Muni-V, LLC; MD Sass Investors Services, Inc.; MD Sass Tax Lien Management, LLC; MD Sass Municipal Finance Partners-IV, LLC; MD Sass Municipal Finance Partners-V, LLC; Vinaya Jessani and Kirk Allison</i></p>	<p>Theodore M. Becker James E. Bayles, Jr. Richard J. Pearl Todd E. Domjan MORGAN LEWIS & BOCKIUS LLP 77 West Wacker Drive, 5th Floor Chicago, Illinois 60601 (312) 324-1000 tbecker@morganlewis.com jbayles@morganlewis.com rpearl@morganlewis.com tdomjan@morganlewis.com</p>

<p><i>Counsel for Defendants Salta Group, Inc. and Marshall Atlas</i></p>	<p>Steven Rappin Elizabeth Monkus HAUSELMAN, RAPPIN & OLSSWANG, LTD. 39 South LaSalle Street, Suite 1105 Chicago, Illinois 60603 (312) 372-2020 srappin@hrolaw.com emonkus@hrolaw.com</p> <p>Edward Genson Genson & Gillespie 53 West Jackson Boulevard, Suite 1420 Chicago, Illinois 60604 (312) 726-9015 gensongillespie@aol.com</p>
<p><i>Counsel for Defendants HBZ, Inc.; Lori Levinson and Judith Berger</i></p>	<p>S. Joseph Formusa RABENS, FORMUSA & GLASSMAN, LTD. 33 North LaSalle Street, Suite 2800 Chicago, Illinois 60602 (312) 782-8334 formusa12@sbcglobal.net</p> <p>Michael D. Sher Athanasios Papadopoulos Sarah Malia NEAL, GERBER & EISENBERG LLP Two North LaSalle Street, Suite 2200 Chicago, Illinois 60602 (312) 269-8000 msher@ngelaw.com tpapadopoulos@ngelaw.com smalia@ngelaw.com</p>
<p><i>Counsel for Defendants Josh Atlas and Arlene Atlas</i></p>	<p>Michael D. Sher Athanasios Papadopoulos Sarah Malia NEAL, GERBER & EISENBERG LLP Two North LaSalle Street, Suite 2200 Chicago, Illinois 60602 (312) 269-8000 msher@ngelaw.com smalia@ngelaw.com</p>

<p><i>Counsel for Defendants B G Investments, Inc.; Bonnie J. Gray; Atlantic Municipal Corporation; Midwest Real Estate Investment Company; Midwest Real Estate Investment Company Employee Profit Sharing Plan & Trust and David Gray</i></p>	<p>Arthur W. Friedman Edward W. Feldman Stuart M. Widman MILLER SHAKMAN & BEEM LLP 180 North LaSalle Street, Suite 3600 Chicago, Illinois 60601 (312) 263-3700 afriedman@millershakman.com efeldman@millershakman.com swidman@millershakman.com</p>
<p><i>Counsel for Defendants Wheeler-Dealer, Ltd. and Timothy E. Gray</i></p>	<p>William T. Huyck LAW OFFICE OF WILLIAM THOMAS HUYCK 122 South Michigan Avenue, Suite 1850 Chicago, Illinois 60603 (312) 427-7500 tomhuyck@yahoo.com</p>
<p><i>Counsel for Defendants Michael DeLuca and Gary Branse</i></p>	<p>Scott Nelson Tammy Lynn Wade Ruff, Weidenaar & Reidy, Ltd. 222 North LaSalle Street Suite 700 Chicago , IL 60601 (312) 263-3890 snelson@rwrlaw.com tlwade@rwrlaw.com</p>
<p><i>Counsel for Defendant Joseph Varan</i></p>	<p>Stephen D. Richek Law Offices of Stephen D. Richek 20 N. Clark Street, Suite 2450 Chicago, IL 60602 strichek@aol.com</p>

By: /s/ Andrew L. Mathews
One of Plaintiffs' Attorneys

Lowell E. Sachnoff (ARDC No. 2438062)
Jonathan S. Quinn (ARDC No. 6200495)
John W. Moynihan (ARDC No. 6212061)
Andrew L. Mathews (ARDC No. 6279672)
REED SMITH LLP
10 South Wacker Drive, Suite 4000
Chicago, Illinois 60606
(312) 207-1000