



Jeremy Gaston
jgaston@hmgnc.com
713-658-9007 (direct & fax)

May 29, 2015

Via E-Filing

Office of the Clerk
United States Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans LA 70130

Re: Case No. 14-20532 (*Bank of America, N.A. v. Fulcrum Enterprises, L.L.C.*)

Dear Sir/Madam:

On April 29, 2015, this Court ordered my client, defendant-appellant Fulcrum Enterprises, LLC (“Fulcrum”) to disclose the States of citizenship of its members for purposes of determining whether the district court had diversity jurisdiction over this matter.

I relayed this request to my client representative, Mr. Allan Groves. In addition, because plaintiff-appellee Bank of America, N.A. filed its original complaint against Fulcrum on February 1, 2012 (*see* ROA.11), I asked Mr. Groves to determine the citizenship of Fulcrum’s members as of that date. *See Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 571 (2004) (time-of-filing rule). Mr. Groves investigated and reported back as follows:

As of [February 1, 2012], the members of Fulcrum Enterprises, LLC were citizens of the following States: Georgia, Nevada, New York, and North Carolina.

See Declaration of Allan Groves ¶ 4 (attached); 28 U.S.C. § 1746 (allowing declarations in lieu of affidavits).¹ Because Bank of America, N.A. is a citizen of North Carolina, the district court lacked diversity jurisdiction over this matter. 28 U.S.C. § 1332.

Sincerely,

/s/ Jeremy Gaston

Jeremy Gaston
*Counsel for Appellant
Fulcrum Enterprises, L.L.C.*

¹ The numbering of the declaration’s paragraphs skips from 2 to 4, which is a typo.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 14-20532

BANK OF AMERICA, N.A.,
Plaintiff-Appellee,

v.

FULCRUM ENTERPRISES, LLC,
Defendant-Appellant

Declaration of Allan Groves

I, Allan Groves, declare as follows:

1. My name is Allan Groves. I am over 18 years of age and am capable of making this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

2. On April 29, 2015, this Court ordered Fulcrum Enterprises, LLC ("Fulcrum") to disclose the States of citizenship of its members. As a representative of Fulcrum, I investigated that issue and hereby report as follows:

4. Bank of America filed its complaint against Fulcrum on February 1, 2012. As of that date, the members of Fulcrum Enterprises, LLC were citizens of the following States: Georgia, Nevada, New York, and North Carolina.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2015.



Allan Groves

