

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

ISAAC WILEY

PLAINTIFF

v.

Civil No. 08-03056

WAYNE HICKS, ET AL.

DEFENDANTS

PULASKI BANK AND TRUST CO.
AND FEDERAL DEPOSIT INSURANCE CORP.,
AS RECEIVER FOR ANB FINANCIAL, N.A.

GARNISHEES

BENTLEY INVESTMENTS OF NEVADA, L.L.C.

INTERVENER

ORDER

NOW on this the 28th day of June 2011, this matter comes on for consideration on Intervener Bentley Investments of Nevada, LLC's **Motion to Turn Over** (Doc. 55). The Court, being well and sufficiently advised, finds and orders as follows:

1. By the Court's Amended and Substituted Order filed on September 29, 2010, this Court held that Intervener, Bentley Investments of Nevada, LLC ("Bentley"), was entitled to:

- * the insured portion of a bank account previously held at now-defunct ANB Financial, N.A., in the name of MY ICIS, Inc. (the "Account"), which at the time was \$100,000; and
- * a FDIC's Receiver's Certificate in the sum of \$498,712.78, which constituted the uninsured portion of the Account.

The reasons for these findings are set out in the Court's Amended and Substituted Order. (See Doc. 54).

2. Bentley advises in its motion that it has received from the FDIC the \$100,000 representing the insured portion of the Account but, despite repeated requests, the FDIC has not provided Bentley with the Receiver's Certificate.

3. In addition, Bentley advises the Court that, under the Emergency Economic Stabilization Act, as extended by the Helping Families Save Their Homes Act, Congress temporarily increased the standard deposit insurance amount to \$250,000 per depositor through December 31, 2013, and that this provision is retroactive to January 1, 2008, pursuant to the Dodd-Frank Wall Street Reform Act and Consumer Protection Act, which is codified at 18 U.S.C. § 1821(a)(1)(E).

Specifically, 12 U.S.C. § 1821(a)(1)(E) provides, in relevant part, as follows:

the term "standard maximum deposit insurance amount" means \$ 250,000, adjusted as provided under subparagraph (F) after March 31, 2010. Notwithstanding any other provision of law, the increase in the standard maximum deposit insurance amount to \$ 250,000 shall apply to depositors in any institution for which the Corporation was appointed as receiver or conservator on or after January 1, 2008, and before October 3, 2008.

4. ANB was placed into receivership on May 9, 2008, thus Bentley asserts that 12 U.S.C. § 1821(a)(1)(E) applies and the insured portion of the Account was retroactively insured for \$250,000, meaning that Bentley is entitled to an additional \$150,000 for the insured portion of the Account from the FDIC.

Bentley further asserts that this payment of \$150,000 should be properly set-off from the Receiver's Certificate.

5. The FDIC denies that Bentley is entitled to the relief that it seeks, but cites no law or fact to refute the authorities cited by Bentley in its motion.

6. The Court finds that, pursuant to 12 U.S.C. § 1821(a)(1)(E), Bentley is entitled to an additional \$150,000, which represents the additional insured portion of the Account.

IT IS THEREFORE ORDERED THAT Intervener Bentley Investments of Nevada's **Motion to Turn Over** (Doc. 55) is hereby **GRANTED**.

IT IS FURTHER ORDERED that Bentley is entitled to an additional \$150,000, which represents the additional insured portion of the ANB account, and that the FDIC is hereby ordered to pay Bentley such amount within **thirty (30) days** from the date of this Order.

IT IS FURTHER ORDERED that Bentley is the proper party to receive the Receiver's Certificate in the amount of \$348,712.78

(\$498,712.78 less \$150,000), and the FDIC is hereby ordered to turn over such Receiver's Certificate to Bentley within **thirty (30) days** from the date of this Order.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE