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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 vs.

15 CMKM DIAMONDS, INC., URBAN
16 CASAVANT, JOHN EDWARDS,
GINGER GUTIERREZ, JAMES
17 KINNEY, ANTHONY TOMASSO,
KATHLEEN TOMASSO, 1ST GLOBAL
18 STOCK TRANSFER LLC, HELEN
BAGLEY, NEVWEST SECURITIES
19 CORPORATION, DARYL
ANDERSON, SERGEY
20 RUMYANTSEV, ANTHONY
SANTOS, and BRIAN DVORAK,

21 Defendants.

Case No. 11-mc-80214 JSW (EDL)

~~PROPOSED~~ ORDER
REGARDING MOTION TO QUASH
THE SUBPOENA *DUCES TECUM*
TO BANK OF THE WEST

~~PROPOSED~~ ORDER

Case No. 11-mc-80214 JSW (EDL)

1 On January 12, 2010, the United States District Court for the Northern
2 District of California issued a document subpoena to Bank of the West (the
3 “Subpoena”) for records related to a bank account ending in 3342, which is a client
4 trust account used by non-parties Harold P. Gewerter and Harold P. Gewerter, Esq.
5 Ltd. (collectively, “Gewerter”). Gewerter has moved to quash the Subpoena, and
6 the Securities and Exchange Commission (the “Commission”) opposes to motion.

7 Having considered the parties’ written and oral arguments, the Court
8 GRANTS IN PART and DENIES IN PART the motion to quash the subpoena.
9 Specifically, all documents produced by Bank of the West in response to the
10 Subpoena (the “Documents”) shall be delivered to the Commission subject to
11 following conditions:

12 1. The Commission shall use the Documents only in connection with its
13 ~~litigation or~~ post-judgment collection efforts in *SEC v. CMKM Diamonds, et al.*
14 (Case Number 08-cv-437), an action originally filed in the United States District
15 Court for the District of Nevada.

16 2. The Commission shall not use the Documents in connection with any
17 Commission investigation or enforcement action that is unrelated to *SEC v. CMKM*
18 *Diamonds*.

19 3. Only ~~Commission staff~~ Leslie Hakala, Molly White, and one Commission paralegal
20 assigned to work on matters related to *SEC v.*
21 *CMKM Diamonds* shall have access to the Documents. The Commission will take all
22 reasonable efforts to ensure that Commission staff not assigned to matters related
23 to *SEC v. CMKM Diamonds* do not have access to the Documents.


24 4. Nothing in this Order shall be construed to apply to any documents or
25 materials possessed or obtained by the Commission by any means other than
26 pursuant to the Subpoena issued to Bank of the West on January 12, 2010, whether

1 or not such documents are also included among the Documents that Bank of the
2 West produces in response to the Subpoena.

3 ~~5. Nothing in this Order shall be construed to prevent the Commission~~
4 ~~from complying with any other legal obligation regarding the Documents.~~

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6 It is SO ORDERED.

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8 Dated: October 26, 2011

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10 
11 ELIZABETH D. LAPORTE
12 MAGISTRATE JUDGE OF THE
13 UNITED STATES DISTRICT
14 COURT
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