

**EVIDENCE PROVING THE GUNDLE FACTORS ARE NOT SATISFIED**

<b><i>Gundle Factor</i></b>	<b>Evidence Proving That the Factor it Is Not Satisfied</b>
No. 3 - the parent and subsidiary have common business departments	<p>(1) HNAH and HBUS do not have common business departments. <i>For example</i>, HBUS has its own Marketing, Accounting and Human Resources Departments.;</p> <p>(2) Although HNAH, as the top-tier parent of all North American operations, does provide some consolidating functions in the accounting, tax, legal and insurance areas, such consolidating functions are provided to all North American subsidiaries and not just HBUS.; and,</p> <p>(3) The insurance coverage which HNAH negotiates provides “insurance for accidents that could happen anywhere in North America”, not just Texas.</p> <p><i>Please see Exhibit 2:</i></p> <p>(1) page 43, lines 14-25, page 60, lines 7-12; page 144, lines 11-17; and page 158, lines 3-6);</p> <p>(2) page 14, lines 19-25; page 23, lines 3-9; page 23, line 22 - page 24, line 5; page 41, lines 10-15; page 60, line 2 - page 61, line 7; and page 81, lines 6-16; and,</p> <p>(3) page 10, line 21 - page 11, line 3; page 15, lines 14-17; page 17, line 14 - page 18, line 3; page 18, lines 7-11; page 20, lines 15-25; page 55, lines 8-14; and page 97, lines 14-19.</p>
No. 5 - the parent finances the subsidiary	<p>HNAH does not provide financial support to HBUS, and HBUS does not need any financial support. As reported by the FFIEC<sup>1</sup>, as of December 31, 2006, HBUS had Total Assets of \$165.6 billion, and total Common &amp; Preferred Capital of \$12.2 billion.</p> <p><i>Please see</i> the FFIEC’s Uniform Bank Performance Report, attached hereto and fully incorporated herein as <b>Exhibit 8</b>, page 3.</p>

<sup>1</sup> The Federal Financial Institutions Examination Counsel (“FFIEC”) “is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutes by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Coporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) and to make recommendations to promote uniformity in the supervision of financial institutions.” (<http://www.ffiec.gov>).

<b><i>Gundle</i> Factor</b>	<b>Evidence Proving That the Factor it Is Not Satisfied</b>
No. 6 - the parent caused the incorporation of the subsidiary	<p>HUSI, not HNAH, caused HBUS to be incorporated.</p> <p><i>Please see</i> HUSI's March 23, 2004 8-K attached hereto and fully incorporated herein as <b>Exhibit</b> 9, page 3.</p>
No. 7 - the subsidiary operates with grossly inadequate capital	<p>HBUS has sufficient operating capital. As of December 31, 2006, HBUS had total assets of \$165.6 billion and total Common &amp; Preferred Capital of \$12.2 billion</p> <p><i>Please see</i> <b>Exhibit</b> 8, pages 2-3.</p>
No. 8 - the parent pays the salaries and other expenses of the subsidiary	<p>(1) HNAH does not pay the salaries of HBUS' employees; and,</p> <p>(2) Any expense that HNAH incurs on a subsidiary's behalf (<i>e.g.</i>, insurance premiums), is allocated back to the subsidiary.</p> <p><i>Please see</i> Exhibit 2: (1) page 21, lines 4-24 and (2) page 18, line 22 - page 19, line 4.</p>
No. 9 - the subsidiary receives no business except that given to it by the parent	<p>(1) Even prior to HNAH's incorporation, HSBC Bank USA - a New York state chartered bank (n/k/a HBUS), had more than 400 branches in New York state alone; and,</p> <p>(2) As reflected by the FDIC's Uniform Bank Performance Report, HBUS' operations have grown since that time</p> <p><i>Please see</i> (1) <b>Exhibit</b> 9, pages 3-4 and (2) <b>Exhibit</b> 8.</p>
No. 10 - the parent uses the subsidiaries property as its own	<p>(1) HBUS owns or leases its own property;</p> <p>(2) HNAH leases its own property.</p> <p><i>Please see</i> Exhibit 2: (1) page 20, lines 3-10 and (2) page 17, lines 1-6.</p>

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<p>No. 11 - the daily operations of the two corporations are not kept separate</p>	<p>(1) HNAH is not involved in, and does not control, HBUS' daily operations.</p> <p>(2) Once a year, HBUS presents its strategic operating plan to Mr. Bobby Mehta outside the presence of HNAH's Board of Directors. Mr. Mehta is a member of HBUS' Board of Directors, as well as HNAH's Chief Executive Officer and a member of its Board of Director.;; and,</p> <p>(3) HNAH does not have any management committee, or any other committee, consisting of its subsidiaries' executives and/or officers.</p> <p><i>Please see Exhibit 2:</i></p> <p>(1) page 58, lines 13-20; page 65, lines 5-9; and page 68, lines 10-25; page 72, lines 5-14; and page 91, line 25 - page 92, line 4;</p> <p>(2) page 34, line 22 - page 35, line 6 and page 36, lines 8-15; and page 28, lines 1-20; and,</p> <p>(3) page 34, lines 9-16.</p>
<p>No. 12 - the subsidiary does not observe the basic corporate formalities, such as keeping separate books and records and holding shareholder and board meetings</p>	<p>In response to DataTreasury's Request for Production No. 12, HNAH produced:</p> <p>(a) HINO's Corporate Profile showing that HNAH is its sole shareholder;</p> <p>(b) HNAI's Corporate Profile showing that HINO is its sole shareholder;</p> <p>(c) HUSI's Corporate Profile showing that HNAI is its sole shareholder; and,</p> <p>(d) HBUS's Corporate Profile showing that HUSI is its sole shareholder.</p> <p><i>Please see the Corporate Profiles attached hereto and fully incorporated herein as Exhibits 10-13.</i></p>