IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

HERITAGE WEST FEDERAL CREDIT UNION, a federally chartered credit union, Plaintiff, vs. DOUGLAS J. BETTS, an individual, and MARIA T. CARLSON-BETTS, an individual, Defendants.	**ORDER and MEMORANDUM DECISION** Case No. 2:11-cv-126-CW

This court "must, *sua sponte*, satisfy itself of its power to adjudicate in every case and at every stage of the proceedings." *State Farm Mut. Auto. Ins. Co. v. Narvaez*, 149 F.3d 1269, 1270-71 (10th Cir. 1998). Here, Defendants are attempting to remove a deficiency judgment action under Utah state law that was filed in Utah state court. The notice of removal asserts two grounds for jurisdiction here. First, Defendants have filed an answer in the Utah state action that alleges federal securities violations. But a federal claim in an answer does not establish federal question jurisdiction. That is because the Tenth Circuit "has held that to support removal jurisdiction, the required federal right or immunity must be an essential element of the plaintiff's cause of action, and that the federal controversy must be disclosed upon the face of the complaint, unaided by the answer or by the petition for removal." *Fajen v. Foundation Reserve*

Ins. Co., Inc., 683 F.2d 331, 333 (10th Cir. 1982) (citations and internal quotation marks omitted).

Second, Defendants assert that there is a pending federal case involving many of the same facts at issue in the state case here. According to Defendants, there are pending motions in the federal case that might affect the outcome of the state case. Defendants do not cite any authority for the proposition that a state case may be removed because it deals with the same facts as a federal case, nor is the court aware of any such authority.

Because Defendants' notice of removal does not set forth any cognizable basis for jurisdiction in this court, this action is REMANDED to the Utah state court from which it was removed.

SO ORDERED this 4th day of February, 2011.

BY THE COURT:

Clark Waddoups
United States District Judge