

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 502
Austin, Texas 78701
Phone: (512) 475-4993
Fax: (512) 322-2061

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REGARDING: ORDER NO. 1 - ANNOUNCING DEFAULT
DOCKET NUMBER: 312-16-5973

FAX TO:

JUDGE FERDIE RODRIGUEZ
FAX TO:

TEXAS FIRST FINANCIAL, LLC; BOBBY EUGENE
GUESS; AND MECHANICAL MOTION SOLUTIONS, LLC

VIA REGULAR MAIL

TRAVIS ILES (TEXAS STATE SECURITIES BOARD)

(512) 305-8398

RACHAEL LUNA (TEXAS STATE SECURITIES BOARD)

(512) 305-8398

xc: Docket Clerk, State Office of Administrative Hearings

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SOAH DOCKET NO. 312-16-5973

TEXAS STATE SECURITIES BOARD,
Petitioner

v.

TEXAS FIRST FINANCIAL, LLC;
BOBBY EUGENE GUESS; AND
MECHANICAL MOTION SOLUTIONS,
LLC,

Respondents

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER NO. 1
ANNOUNCING DEFAULT

On September 6, 2016, Administrative Law Judge (ALJ) Fernando Rodriguez convened the hearing in this case concerning whether an Emergency Cease and Desist Order (Emergency Order) issued by the Texas State Securities Board (Board) against Texas First Financial, LLC; Bobby Eugene Guess; and Mechanical Motion Solutions, LLC (collectively, Respondents) should be affirmed, modified, or set aside.¹ The Board's Attorneys (Staff), Rachael Luna and Travis Iles, appeared and announced ready. Respondents did not appear in person or through counsel. Upon admitting into the record Staff Exhibit Nos. 5, 6, 7, 8, and 9 showing that notice to Respondents was legally sufficient, the ALJ found there was adequate notice and granted Staff's oral motion for default. Staff's evidence shows the following:

On August 15, 2016, the Board entered its Emergency Order against Respondents in Board Docket No. ENF-16-CDO-1746.² In a letter dated August 26, 2016, Mr. Iles confirmed a telephone conversation with Mr. Guess, as well as correspondence received from Mr. Guess, and informed Respondents that Staff was interpreting the correspondence as a request for hearing to contest the Board's Emergency Order.³ On August 26, 2016, Staff Attorney Rachael Luna emailed to Mr. Guess copies of material mailed to him that same date, USPS, Certified Mail,

¹ Staff Ex. 5, at 3.

² Staff Ex. 6 at 8-12.

³ Staff Ex. 6 at 19, 20.

Return Receipt Requested. Included in that mailing was another copy of the August 26, 2016 letter from Mr. Iles to Mr. Guess. Mr. Guess faxed back to Ms. Luna a copy of the August 26, 2016, email with the following written across the front of the facsimile in marker, "VOID 'NO CONTRACT.'"⁴ The Board also had issued a Subpoena to Mr. Guess on August 30, 2016, informing him of the hearing in this case, scheduled for September 6, 2016, 9:00 a.m., State Office of Administrative Hearings (SOAH), 300 W. 15th Street, Austin, Texas 78701. The evidence shows that the hearing date, time, and location was properly provided to Respondents, but they nonetheless failed to appear in person or through counsel.

The ALJ finds that notice to Respondents of the September 6, 2016, hearing was adequate and complied with the requirements in Texas Government Code § 2001.051 and § 2001.052, and 1 Texas Administrative Code § 155.401. Pursuant to 1 Texas Administrative Code § 155.501(d), the ALJ announces that Respondents defaulted by failing to appear at the September 6, 2016, hearing.

Respondents may file a motion with SOAH requesting to set aside the default announced in this order and reopen the evidentiary record. The motion must state good cause for setting aside the default and reopening the record. This motion must be filed no later than **September 19, 2016**. If Respondents do not timely file this motion, this case will be dismissed from SOAH's docket and returned to the Board for informal disposition on a default basis in accordance with Texas Government Code § 2001.056. The Board's Cease and Desist Order remains in effect.

SIGNED September 8, 2016.


FERNANDO RODRIGUEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁴ Staff Ex. 5; Staff Ex. 6 at 23.

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AUSTIN OFFICE

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 322-2061

SERVICE LIST

AGENCY: State Securities Board (SSB)
STYLE/CASE: TEXAS FIRST FINANCIAL, LLC
SOAH DOCKET NUMBER: 312-16-5973
REFERRING AGENCY CASE:

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ FERDIE RODRIGUEZ**

REPRESENTATIVE / ADDRESS

PARTIES

TRAVIS ILES
STAFF ATTORNEY
TEXAS STATE SECURITIES BOARD
ENFORCEMENT DIVISION
208 E 10TH STREET, 5th Floor
AUSTIN, TX 78701
(512) 305-8384 (PH)
(512) 305-8398 (FAX)
tiles@ssb.texas.gov

TEXAS STATE SECURITIES BOARD

TEXAS FIRST FINANCIAL, LLC; BOBBY EUGENE GUESS;
AND MECHANICAL MOTION SOLUTIONS, LLC
5300 TOWN & COUNTRY BLVD , STE. 190
FRISCO, TX 75034

TEXAS FIRST FINANCIAL, LLC; BOBBY EUGENE
GUESS; AND MECHANICAL MOTION SOLUTIONS, LLC

RACHAEL LUNA
STAFF ATTORNEY
TEXAS STATE SECURITIES BOARD
ENFORCEMENT DIVISION
208 E 10TH STREET, 5th Floor
AUSTIN, TX 78701
(512) 305-8392 (PH)
(512) 305-8398 (FAX)
rluna@ssb.texas.gov

TEXAS STATE SECURITIES BOARD

Denise Kimbrough

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