

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

LESLIE NEWMAN, Commissioner of)
the Tennessee Department of)
Commerce and Insurance,)
Petitioner,)

VS.)

NO. 10-507-III

SMART DATA SOLUTIONS, LLC, a)
Tennessee limited liability company,)
AMERICAN TRADE ASSOCIATION,)
INC., an Indiana nonprofit corporation)
with its principal place of business in)
Tennessee, AMERICAN TRADE)
ASSOCIATION, LLC, an Arkansas)
limited liability company, SERVE)
AMERICA ASSURANCE, a corporation)
with an unknown location, BART S.)
POSEY, SR., ANGIE POSEY, OBED W.)
KIRKPATRICK, SR., LINDA)
KIRKPATRICK, RICHARD H.)
BACHMAN, KRISTY WRIGHT,)
WILLIAM M. WORTHY, II, and)
COLIN YOUELL,)

Respondents.)

2010 APR 28 PM 12:07
FILED
DAVIDSON COUNTY CHANCERY CLERK
R.C.M.H.

ORDER

There are mathematical typographical and calculation errors on page 5 of the April 27, 2010 Memorandum and Order. The figure "\$1,628,482.00" on the fourth line from the bottom of page 5 should be "\$1,621,482.00." The figure "\$6,895,830.00" on the third line from the bottom of page 5 should be "\$7,291,830.00." The other figures contained on page 5

are not changed as they are quoted from the references Mr. Eggers made to this March 31, 2010 affidavit, filed as Exhibit 8 to the Verified Petition.

It is therefore ORDERED that the incorrect figures described above are altered and amended to "\$1,621,482.00" and "\$7,291,830.00." For counsel's ease of reference, a copy of a corrected page 5 of the Memorandum and Order is attached as Exhibit A with the corrections in bold.



ELLEN HOBBS LYLE
CHANCELLOR

cc: Sarah Hiestand
Lyndsay Sanders
Attorneys for the Petitioner

William Hendricks
Russell Hensley
Nader Baydoun
Stephen Knight

Attorney for American Trade Association, Inc., Smart Data Solutions, LLC
American Trade Association, LLC, Bart S. Posey, and Angie S. Posey

David Raybin
Attorney for Linda Kirkpatrick and Obed Kirkpatrick, Sr.

American Assurance, Ltd.
Richard Bachman

checks that had been issued by the Businesses but which did not clear the bank due to the seizure order freezing transactions. That "check run," as well, has not been disputed or challenged and is found by the Court to constitute a liability.

Mr. Eggers also testified to another 23,951 claims, consisting of 11,951 that had been scanned but not yet adjudicated and entered into Eldorado; and 24,000 claims located in various parts of the offices that were neither scanned nor entered. As to the 24,000, Mr. Eggers applied a 50% discount (12,000) to take into account duplicate filings of the same claim. He applied no duplication discount to the 11,951 scanned but not yet adjudicated claims. By adding the 11,951 claims to the 12,000 scanned but not entered claims, he came up with the 23,951. He then applied an average per claim liability of \$220.13. He arrived at that amount by simply referring back to the information he had found in Eldorado on adjudicated claims. Mr. Eggers divided the value of adjudicated claims found in Eldorado by the number of adjudicated claims to arrive at an average per claim liability which, as stated, he found to be \$220.13. Taking that average per claim liability and multiplying it by the 23,951 additional claims produced \$5,272,348.00 of liabilities for unadjudicated claims.

The \$5,272,348.00 was then added to the \$398,00.00 check run and the **\$1,621,482.00** of unpaid adjudicated claims for a total claims liability of **\$7,291,830.00**.

On the asset side, it is undisputed that the cash available to the Businesses is approximately \$2.1 million.

FILED
2010 APR 28 PM 12:08
CLERK AND MASTER
FEDERAL BANCORP