

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

R.J. ZAYED, In His Capacity As  
Court-Appointed Receiver For The  
Oxford Global Partners, LLC, Uni-  
versal Brokerage, FX, and Other Re-  
ceiver Entities,

Plaintiff,

vs.

ASSOCIATED BANK, N.A.,

Defendant.

Case No. 13-cv-00232  
(DSD-JSM)

**DEFENDANT ASSOCIATED BANK, N.A.'S MEMORANDUM OF LAW IN  
SUPPORT OF ITS UNOPPOSED MOTION TO DEPOSE PATRICK KILEY  
AND CHRISTOPHER PETTENGILL**

Defendant Associated Bank, N.A. ("Associated") wishes to depose Patrick Kiley and Christopher Pettengill, both of whom are in prison, which requires Associated to obtain leave of Court to depose them. Their testimony is necessary, is not duplicative, and is not obtainable by any other means. Further, the Receiver has informed Associated that he does not object to Associated taking their depositions. Thus, Associated respectfully asks the Court to grant it leave to depose Kiley and Pettengill.

Rule 30(a)(2) of the Federal Rules of Civil Procedure provides, in relevant part, that "A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(2) . . . if the deponent is confined in prison." At present, Kiley is incarcerated in Minnesota at the Roch-

ester Federal Medical Center, and Pettengill is incarcerated at the Duluth Federal Prison Camp. Because Kiley and Pettengill are incarcerated, Rule 30(a)(2)(B) requires Associated to obtain leave of the Court to depose them.

Kiley and Pettengill were key architects of the Ponzi scheme at issue in this case and have information critical to Associated's defenses. Both Kiley and Pettengill will be able to testify regarding the substance of their individual conversations with Associated Bank and their conversations (if any) about Associated Bank. Their testimony will be neither cumulative nor duplicative, and cannot be obtained from any other disinterested source. As a result, these depositions are necessary and relevant to this action.

In addition, these depositions will not unduly burden the Receiver, who has already stated that he does not oppose them. Associated will coordinate with the prison staff to depose Kiley and Pettengill at their correctional facilities, so they will not need to be transferred or otherwise travel.

### **CONCLUSION**

Based on the foregoing, Associated respectfully requests that the Court grant its Unopposed Motion for Leave to Depose Patrick Kiley and Christopher Pettengill.

Dated: November 5, 2015

Respectfully,

*s/ Charles F. Webber*

Charles F. Webber

Bar Number 215247

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