

IRVING L. FAUGHT  
ADMINISTRATOR



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES

*MEMORANDUM*

*To: Irving L. Faught, Administrator*

*From: Melanie Hall, Deputy Administrator* *mk*

*Date: March 9, 2015*

*Re: ENFORCEMENT REPORT*

Attached is the report of the enforcement activities of the Department for the months of January and February, 2015.

Attachment

h/home/londonb/EnforcementReports/15\_Enf-Reports\_Jan-Feb\_2015.doc

**OKLAHOMA DEPARTMENT OF SECURITIES  
ENFORCEMENT ACTIVITIES  
JANUARY AND FEBRUARY 2015**

		<b>FY-15</b>		<b>FY-14</b>
		<b>YTD</b>		<b>YTD</b>
<b>I.</b>	<b>Enforcement Files</b>			
	a. Enforcement Files Opened during the reporting period	48		48
	1. Securities Act	47		41
	2. Business Opportunity Sales Act	0		7
	3. Other	1		0
	b. Enforcement Files Closed during the reporting period	62		72
	c. Active Enforcement Files	174		213
<b>II.</b>	<b>Actions Taken during the reporting period</b>			
	a. Orders Initiating Investigation	0		1
	1. Securities Act	0		1
	2. Business Opportunity Sales Act	0		0
	b. Summary Orders	0		0
	1. Securities Act	0		0
	2. Business Opportunity Sales Act	0		0
	c. Notices of Opportunity for Hearing Served	4		5
	1. Securities Act-Notices	3		5
	i. Hearing Set	1		0
	ii. Hearings Held	0		0
	2. Business Opportunity Sales Act Notices	1		0
	i. Hearing Set	0		0
	ii. Hearings Held	0		0

		<b>FY-15</b>	<b>FY-14</b>
		<b>YTD</b>	<b>YTD</b>
d. Other Orders		20	16
1. Securities Act		19	16
2. Business Opportunity Sales Act		1	0
e. Public Undertakings/Agreements		5	3
1. Securities Act		5	3
2. Business Opportunity Sales Act		0	0
f. Confidential Settlement Agreements		0	0
1. Securities Act		0	0
2. Business Opportunity Sales Act		0	0
g. Letters of Caution		5	2
1. Securities Act		5	2
2. Business Opportunity Sales Act		0	0
g. Appeals from Final Orders		1	0
1. Securities Act		1	0
2. Business Opportunity Sales Act		0	0
h. Civil Penalties - Amounts Collected		\$221,690.11	\$25,000
1. Securities Act		\$221,690.11	\$25,000
2. Business Opportunity Sales Act		\$0	\$0
i. Administrative Costs - Amounts Collected		\$0	\$0
1. Securities Act		\$0	\$0
2. Business Opportunity Sales Act		\$0	\$0

		<b>FY-15</b>	<b>FY-14</b>
		<b>YTD</b>	<b>YTD</b>
	j. Civil Enforcement Activities		
	1. Securities Act		
	i. Subpoenas Issued	6	0
	ii. Civil Petitions Filed	2	4
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	0	0
	v. Civil Appeals Filed	1	0
	vi. Administrative or other Court Appearances (including pleadings filed)	58	23
	2. Business Opportunity Sales Act		
	i. Subpoenas Issued	0	0
	ii. Civil Petitions Filed	0	0
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	0	0
	v. Civil Appeals Filed	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)	0	4
	k. Miscellaneous Activities		
	1. Public Information/Press Releases (copy attached)	0	1
	2. Trainings/Seminars Attended	8	9
	3. Coordinated Activities	0	0
	<b>III. Inquiries and Complaints</b>		
	a. Inquiries	29	41
	b. Referrals from Other Oklahoma Agencies	2	5
	c. Referrals from Out of State Agencies	2	2

*Appellate Actions*

SUMMARY

**Southeast Investments, N.C. Inc., and Frank H. Black, Appellants v.  
The State of Oklahoma *ex rel.* The Oklahoma Securities Commission, Appellee  
Supreme Court No. 113585**

On January 20, 2015, Southeast Investments, N.C. Inc., and Frank H. Black (collectively, the “Appellants”) filed a Petition in Error in the Supreme Court of Oklahoma in connection with the Final Order entered by the Oklahoma Securities Commission (Appellee) on December 22, 2014, against Appellants. Appellants filed a Designation of Record for Appeal. Entries of appearance were filed by Patrick O. Waddel and J. David Jorgenson of Sneed Lang, P.C. as counsel for Appellants.

On February 10, Appellee filed a response to the Appellants’ Petition in Error. Entries of appearance were filed by Amanda Cornmesser and Jennifer Shaw of the Department as counsel for Appellee. On February 12, Appellee filed its Counter-Designation of Record for Appeal to the Oklahoma Supreme Court.

Civil Actions

SUMMARY

**Oklahoma Department of Securities *ex rel.* Irving L. Faight, Administrator v.  
2001 Trinity Fund, L.L.C. and Robert Arrowood  
Civil Case No. CJ-2012-6164**

On October 10, 2012, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against 2001 Trinity Fund, L.L.C. (2001 Trinity Fund) and Robert Arrowood (Arrowood) (collectively, the “Defendants”) of Norman, Oklahoma, alleging violations of Sections 1-301, 1-402 and 1-501 of the Oklahoma Uniform Securities Act of 2004 (Act), in connection with the offer and sale of promissory notes to investors. Investor proceeds, totaling over \$450,000, were to be used to buy oil and gas leases for eventual resale. The proceeds were not used as represented. On October 23, L. Win Holbrook, bankruptcy trustee, filed his entry of appearance as counsel for 2001 Trinity Fund and requested an extension of time to file an answer. During November 2012, answers to the Department’s petition were filed by the Defendants.

On June 5, 2013, Arrowood filed a motion for summary judgment. On August 6, Judge Roger Stuart entered orders denying Arrowood’s motion.

On September 10, Arrowood filed a notice to take the deposition of the Administrator. On September 17, the Department filed a motion to quash Arrowood’s deposition notice and to request a protective order. On September 20, Arrowood filed a motion for a protective order. On November 13, Judge Stuart granted the Department’s motion to quash the deposition notice and denied Arrowood’s motion for a protective order.

On December 12, Arrowood filed a second motion for summary judgment thereby renewing his request to dismiss the case against him. On January 3, 2014, the Department filed its response to Arrowood’s renewed motion. On May 30, 2014, a hearing was held on Arrowood’s renewed motion for summary judgment. Judge Stuart denied the motion.

On August 5, Arrowood filed a Third Party Petition in this matter against Irving L. Faight and Shaun M. Mullins, in their individual capacities, alleging defamation, invasion of privacy, and intentional interference with business relations. On August 21, the Department filed a motion to strike the Third Party Petition. On September 8, Arrowood filed a notice to withdraw the Third Party Petition.

On November 19, the Department filed a motion to bifurcate the trial issues and to establish a claims procedure.

During the month of December, Arrowood filed his response in opposition to the Department’s motion to bifurcate the trial issues and to establish a claims procedure. The

Department filed its reply. The Department filed an application to expand the length of its motion for a summary judgment. The application was granted.

On January 5, 2015, Arrowood filed his preliminary list of witnesses and exhibits. On January 7, the Department filed its final list of witnesses and exhibits. On January 16, the Department filed its Motion for Partial Summary Judgment requesting the Court to find that the notes at issue are securities; that the securities were not properly registered under the Act; and that Arrowood offered and sold the securities without benefit of registration under the Act.

On February 10, Arrowood filed a request for an extension of time to respond to the Department's motion. Arrowood's request was granted. On February 23, Arrowood filed his response and an objection to the Department's motion for partial summary judgment.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v. Jasmine, Inc.; Oklahoma Energy Exchange, LLC; Harrisburg Prospect Lease Fund, LLC; Gates Oil & Gas, Ltd.; Harrisburg 2 Prospect Lease Fund, LLC; Jimmy W. Gray; Greg L. Gray; Michael K. Gray; and Lance P. Bowman  
Civil Case No. CJ-2013-5023**

On September 9, 2013, the Department filed a Petition for Permanent Injunction and other Relief in the District Court of Oklahoma County against the above-named Defendants alleging violations of Sections 1-301, 1-402 and 1-501 of the Act. The Department also filed an application for a temporary restraining order, an asset freeze, an accounting and a temporary injunction. On the same date, Judge Patricia Parrish, for Judge Barbara Swinton, issued a temporary restraining order, an order for an asset freeze as to the business entities, and an order for an accounting. On September 30, a hearing was held wherein Judge Swinton entered an agreed order appointing L. Vance Brown (Brown) as the Receiver for Defendants Jasmine, Inc. (Jasmine), Gates Oil & Gas, Ltd. (Gates), and Harrisburg 2 Prospect Lease Fund, LLC (Harrisburg 2). She also issued a temporary injunction against Defendants Jasmine, Gates, Harrisburg 2, Jimmy Gray, Michael Gray and Lance Bowman. On October 17, Judge Swinton entered an order appointing Brown as the Receiver for Defendants Oklahoma Energy Exchange, LLC and Harrisburg Prospect Lease Fund, LLC. On October 23, Judge Swinton entered an agreed order vacating the asset freeze as to the entities subject to the receivership. Judge Swinton also issued a temporary injunction against Defendants Oklahoma Energy Exchange, LLC (OEE) and Harrisburg Prospect Lease Fund, LLC.

On April 1, 2014, the Administrator and Defendant Bowman agreed to the entry of an Agreed Judgment wherein Bowman is restrained and enjoined from, directly or indirectly, participating in or facilitating, the offer and/or sale of any security in and/or from Oklahoma for a one-year period beginning March 31, 2014 through March 31, 2015. Defendant Bowman agreed to disclaim and relinquish all legal and equitable right, title, claim, or interest in Jasmine, Inc., Oklahoma Energy Exchange, LLC, Harrisburg Prospect Lease Fund, LLC, Gates Oil & Gas, LTD, and Harrisburg 2 Prospect Lease Fund, LLC.

On January 8, 2015, Defendants Jimmy Gray and Michael Gray agreed to the entry of judgments wherein Defendant Jimmy Gray is restrained and enjoined from, directly or indirectly, participating in or facilitating the offer and/or sale of any security in and/or from Oklahoma. Defendant Michael Gray is restrained and enjoined from, directly or indirectly, participating in or facilitating the offer and/or sale of any security in and/or from Oklahoma for a five-year period commencing December 28, 2014. Defendants Jimmy Gray and Michael Gray also agreed to disclaim and relinquish all legal and equitable right, title, claim, or interest in Jasmine, Inc., Oklahoma Energy Exchange, LLC, Harrisburg Prospect Lease Fund, LLC, Gates Oil & Gas, LTD, and Harrisburg 2 Prospect Lease Fund, LLC; to take no action, directly or indirectly, to hinder or obstruct the Receiver in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession, or control exercised by said Receiver; and to make restitution to investors to be identified by the Court, in amounts to be determined by the Court. On January 8, Judge Swinton entered judgments against Defendants Jimmy Gray and Michael Gray.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v. Bruce J. Scambler**  
**Civil Case No. CJ-2014-1346**

On March 7, 2014, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against Bruce J. Scambler (Scambler), of Nichols Hills, Oklahoma, alleging Scambler and an issuer under his control had offered and sold securities in and from Oklahoma in violation of a Cease and Desist Order issued by the Administrator on June 11, 2009. On March 13, Jeffrey D. Black, of the Bonham & Howard law firm, filed his entry of appearance as counsel for Scambler.

On December 31, the Department filed a Motion for Summary Judgment against Scambler. A hearing date of February 6, 2015 was set.

On January 20, 2015, Scambler filed his objection to the Department's Motion for Summary Judgment. On January 30, the Department filed a motion to strike the hearing scheduled for February 6. The hearing was rescheduled to March 6.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v. Nicholas P. Yukich, III, Nick's Oil & Gas Corporation and NUCO Energy, LLC**  
**Civil Case No. CJ-2014-2093**

On November 5, 2014, the Department filed an Application to Enforce Subpoena Compliance, in the District Court of Oklahoma County, against Nick's Oil & Gas Corp. ("NOG") and Nicholas P. Yukich, III ("Yukich"), and NUCO Energy, LLC ("NUCO") (collectively, the "Defendants").

On December 17, Defendants NOG and Yukich filed their answers. Defendant NUCO filed a motion to dismiss the Department's application alleging insufficiency of process, insufficiency of service of process, failure to state a claim upon which relief can be granted, and lack of jurisdiction. On December 23, Defendants filed a motion for an order permitting Eric D. Fein, of Addison, Texas, to appear on their behalf in this matter. On December 31, the Department filed its response to Defendant NUCO's motion to dismiss.

On January 9, 2015, Defendants' motion for an order permitting Eric D. Fein, of Addison, Texas, to appear on their behalf was granted.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v. Seabrooke Investments, LLC; Seabrooke Realty, LLC; Oakbrooke Homes, LLC; Bricktown Capital, LLC; KAT Properties, LLC; Cherry Hill, LLC *dba* Cherry Hill Apartments; Tom W. Seabrooke; and Judith Karyn Seabrooke  
Civil Case No. CJ-2014-4515**

On August 11, 2014, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against the above-named Defendants, all of Oklahoma City, Oklahoma, alleging violations of Sections 1-301, 1-402 and 1-501 of the Act. The Department also filed an Application for a Temporary Restraining Order, Order Freezing Assets, Order Appointing Receiver, Order for Accounting and Temporary Injunction. On the same date, Judge Patricia G. Parrish issued a Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets, and Order for Accounting. Judge Parrish appointed Ryan Leonard as Receiver. On August 18, Robert Edinger filed his entry of appearance as counsel for the Receiver. On August 19, the Defendants filed a motion to vacate the temporary restraining order. On August 19, a hearing was held on the Department's application for a temporary injunction and Defendants' motion to vacate the temporary restraining order. Judge Parrish ordered the entry of a temporary injunction and ordered that the asset freeze, with the exception of one bank account, and the receivership remain in effect.

On September 9, a hearing was held on the Receiver's emergency motion to release the Bricktown Hotel and Convention Center as an asset of the Receivership. The Receiver believed that the value of the hotel was less than the value of its existing mortgages. The Court ordered that the Bricktown Hotel and Convention Center be released from the asset freeze and receivership. Upon oral motion by the Seabrookes' counsel, the Court considered compensation from the receivership estate for Tom and Karyn Seabrooke. The Court authorized a one-time \$4,000 payment to Tom Seabrooke for his prior services in management of the hotel. The Court further authorized Karyn Seabrooke to receive a monthly payment of \$2,500 for property management services so long as the Receiver continues to utilize her services and one-half of all real estate commissions earned by Seabrooke Realty, LLC so long as she is licensed to sell real estate, employed by Seabrooke Realty, LLC, and utilized by the Receiver in that regard.

After the Court's September compensation ruling, the Department filed a motion to remove Tom and Karyn Seabrooke from employment by the receivership. This motion was

heard on October 14. The Court denied the Department's motion and ruled that Karyn Seabrooke would continue to receive monthly compensation in the amount of \$2,500.

During the month of November, 2014, the Court approved the Receiver's fee application for the month of September and the Receiver filed an application for the approval of his October 2014 fees. An agreed order was entered for the sale of the Cherry Hill Apartments located at 4708 S.E. 44<sup>th</sup> Street, Oklahoma City, Oklahoma (Cherry Hill Apartments). The Department filed a motion to retain the commission from the receivership sale of the Cherry Hill Apartments. The Defendants filed an objection to the Department's motion to retain the commission and the Department filed a reply. An agreed order was entered for the sale of property located at 2528 N.W. 12<sup>th</sup> Street in Oklahoma City, Oklahoma. An order was issued memorializing a September 2014 decision of the Court approving compensation to Tom and Karyn Seabrooke.

During the month of December, 2014, the Receiver filed a motion for contempt and for a declaratory order against First Commercial Bank (FCB) regarding the release of funds escrowed in connection with the sale of the Cherry Hill Apartments. Judge Parrish ordered the commission from the sale of the Cherry Hill Apartments to be escrowed. The Receiver filed an application for the Court to establish a claims procedure for creditors and/or investors. First National Bank of Weatherford (FNB-Weatherford) filed a motion for the release of the Oakbrooke Lawton Property from the Receivership estate. The Court approved the Receiver's October fee application and the Receiver filed an application for an order approving fees and expenses for the month of November.

During the month of January 2015, FNB-Weatherford filed a motion for the release of the Oakbrooke College Park Property from the Receivership estate and a supplement to its motion for the release of the Oakbrooke Lawton Property. An agreed order was entered releasing the property from the Receivership estate. Quail Creek Bank (QCB) filed a motion to disburse escrowed funds to QCB. Bricktown Capital LLC (Bricktown Capital) filed a motion to disburse escrowed funds to Bricktown Capital and for the payment of expenses of hotel vendors, and an objection to QCB's motion for disbursement. QCB filed an objection to Bricktown Capital's motion for disbursement of escrowed funds and for the payment of expenses of hotel vendors. The Department and the Receiver filed responses to QCB's motion. The Department also filed a response to Bricktown Capital's motion. QCB filed a response to all parties' objections to its motion. Wayne Doyle, a non-party, filed a motion for leave to intervene. An agreed protective order was issued relating to certain information requested from Wayne Doyle. The Court approved the Receiver's November fee application. An agreed order was entered establishing a claims procedure and setting a March 15, 2014 deadline for the filing of claims.

During the month of February, agreed orders were entered authorizing conditional intervention by FCB and Wayne Doyle. FCB filed its response to the Receiver's contempt motion and the application for an order to disburse escrowed attorney's fees relating to the Cherry Hill Apartments. Ilana D. Sharpe filed her entry of appearance as counsel for the Defendants. The Receiver filed a response to Bricktown Capital's motion for payment to hotel vendors. A hearing was held on February 6, wherein the Court granted, in part, QCB's motion to disburse escrowed funds. The Court ordered the payment of \$6,064.20 to QCB and the payment

of the remaining escrowed funds to the Receiver. At the hearing, the Court postponed a decision on the Defendants' motion to pay hotel vendors. An order was issued memorializing the February 6 rulings. Bricktown Capital filed a motion to strike the order and to substitute a corrected order. Agreed orders were entered releasing the Oakbrooke College Park Property from the Receivership estate and continuing the hearing on the FNB-Weatherford intervention motion. Alicia Holtslander-Petrone filed an emergency application to intervene and a motion for an emergency order for the disposition of assets relating to Receivership properties on 17<sup>th</sup> Street in Oklahoma City, Oklahoma. The Receiver filed a fee application for December 2014 and January 2015. Defendants filed an objection to this fee application. An agreed order was entered for the sale of property located at 1609 N.W. 15th Street, Oklahoma City, Oklahoma.

**Southeast Investments, N.C., Inc. and Frank H. Black v.  
The State of Oklahoma *ex rel.* The Oklahoma Securities Commission  
Case No. CV-2015-86**

On January 20, 2015, Southeast Investments, N.C., Inc., and Frank H. Black (collectively, "Petitioners" and, individually, "SEI" and Black") petitioned the Court for review of the Final Order entered by the Oklahoma Securities Commission (the "Commission") on December 22, 2014.

On February 10, the Department filed its response to the petition.