

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES]
Ex rel. IRVING L. FAUGHT, Administrator,]
and DOUGLAS L. JACKSON, in his capacity as]
the court appointed receiver for the investors and]
creditors of Schubert & Assoc. and for the assets]
of Marsha Schubert, individually, and doing]
business as Schubert & Associates, and for]
Schubert & Associates,]

Plaintiffs/Appellees,]

vs.]

ROBERT W. MATHEWS, ET AL]

Defendants,]

ARTHUR PLATT, YVONNE PLATT,]
MARVIN WILCOX, AND PAMELA WILCOX,]

Defendants/Appellants.]

Case No. CJ-2005-3796

Consolidated with

Case No. CJ-2005-3299

Supreme Court No. 104304

RESPONSE TO PETITION IN ERROR OF APPELLEE/RECEIVER

Is Appellee willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250?

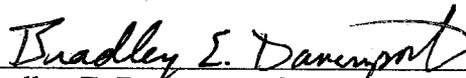
_____ YES X NO

Attach as Exhibit "A" appellee's statement of the case.

Appellee/Receiver, Douglas L. Jackson, is filing no supplement to the record on accelerated appeal. See Rule 1.36.

DATE: March 2, 2007

Respectfully submitted,



Bradley E. Davenport, OBA 18687

Julia C. Riemann, OBA 15337

Gungoll, Jackson, Collins, Box, & Devoll, P.C.

P O Box 1549

Enid, OK 73702-1549

Telephone: 580-234-0436/Fax: 580-233-1284

Attorneys for Plaintiff/Appellee,

Douglas L. Jackson, Receiver

CERTIFICATE OF SERVICE

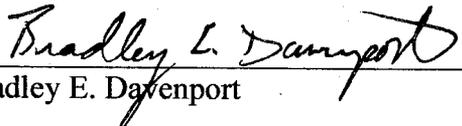
I hereby certify that on the 2nd day of March 2007, I mailed a true and correct copy of the above and foregoing instrument, postage pre-paid to:

Amanda Cornmesser
Gerri Stuckey
Melanie Hall
Oklahoma Department of Securities
First National Center, Suite 860
120 North Robinson
Oklahoma City, OK 73102
Attorneys for Oklahoma Department
of Securities

G. David Bryant
Lisa Mueggenborg
Kline Kline Elliott & Bryant
720 N.E. 63rd St.
Oklahoma City, OK 73105
Attorneys for Defendants/Appellant
Arthur Platt, Yvonne Platt,
Marvin Wilcox, and Pamela Wilcox

I further certify that on the 2nd day of March 2007, a copy of the *Response to Petition in Error* was mailed to, or filed with:

Oklahoma County Court Clerk
409 County Office Bldg.
320 Robert S. Kerr Ave.
Oklahoma City, OK 73102



Bradley E. Davenport

Exhibit "A" – Appellee/Receiver's Statement of the Case

Marsha Schubert, an investment representative, operated a Ponzi scheme from January 2000 through October 2004. Schubert perpetrated this scheme by paying out money she received from later investors to earlier investors in the form of fictitious profits. As a result of Schubert's Ponzi scheme, 87 victims lost \$9.1 million. The Oklahoma Department of Securities ("Department") sought the appointment of a receiver in the District Court of Logan County.

The District Court of Logan County appointed the Appellee as receiver for the assets of Marsha Schubert and Schubert and Associates. The Court later amended its Order expressly appointing Appellee as receiver for the benefit of claimants and creditors of Schubert. Appellee filed this lawsuit in the District Court of Oklahoma County to recover fictitious profits Schubert paid out to Appellants and their co-defendants below as part of her Ponzi scheme.

Appellee's claim for unjust enrichment is equitable in nature and is based on Appellants receiving a benefit at the expense of others. Neither wrongdoing nor a defendant's state of mind is relevant to an unjust enrichment cause of action. Appellants Wilcox received \$509,505 in fictitious profits from Schubert in addition to Schubert laundering \$77 million through their personal checking account. The Appellants Platt received \$8,749 from Schubert out of her bank account for which they gave nothing of value. The money in Schubert's accounts was other investors' money. Appellants received fictitious profits from Schubert at the expense of others.

While Appellants may have paid money to third-party brokerage firms, those payments went into their legitimate brokerage accounts. The funds that Appellants unjustly received came from Schubert out of her own bank accounts. Paying money into "A" does not justify receiving money from "B". The trial court properly granted summary judgment in favor of Plaintiffs/Appellees and against Defendants/Appellants, and that decision should be affirmed.