

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

OCT 18 2010

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
DEPUTY

OKLAHOMA DEPARTMENT OF SECURITIES )  
*ex rel.* IRVING L. FAUGHT, Administrator, et al., )

Plaintiffs, )

v. )

ROBERT W. MATHEWS, et al., )

Defendants. )

Case No. CJ-2005-3796

JOURNAL ENTRY OF JUDGMENT

NOW on the 1<sup>st</sup> day of October, 2010, the Plaintiffs' *Motion for Summary Judgment* relative to Marvin and Pamela Wilcox (Defendants Wilcox), came on for hearing. The Department appeared by and through its attorneys, Amanda Cornmesser and Gerri Kavanaugh. The Plaintiff Receiver appeared by and through his attorney, Bradley Davenport. Defendants Wilcox appeared by and through their attorney, Julie Brower.

Based on the briefs filed, the arguments of counsel, and being fully advised in the premises, this Court finds as follows:

1. There is no genuine issue of material fact pertaining to the liability of Defendants Wilcox pursuant to Plaintiffs' unjust enrichment cause of action;

2. By virtue of their participation in the Schubert check kiting scheme, the Defendants Wilcox are not innocent investors and therefore the standard for recovery from investors in Ponzi scheme cases set forth in *Oklahoma Department of Securities, et al. v. Blair, et al.*, 2010 OK 16, does not apply.



3. Defendants Wilcox were unjustly enriched by all moneys netted from their association with the Marsha Schubert and Schubert and Associates Ponzi scheme and check kiting scheme.

4. There is a genuine issue of material fact pertaining to the amount of money Defendants Wilcox netted from their association with Marsha Schubert and Schubert and Associates by which Defendants Wilcox were unjustly enriched

5. Plaintiffs' *Motion for Summary Judgment* against Defendants Wilcox should be and hereby is granted in part and denied in part.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that Plaintiffs' *Motion for Summary Judgment* relative to Defendants Wilcox is granted on the issue of liability relative to Plaintiffs' cause of action for unjust enrichment.

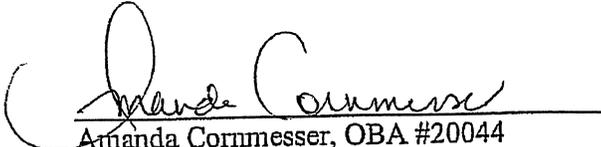
IT IS FURTHER ORDERED that Plaintiffs' *Motion for Summary Judgment* relative to Defendants Wilcox is denied on this issue of damages or the amount Defendants Wilcox must disgorge as a result of their unjust enrichment from Schubert's operation of a Ponzi scheme and check kiting scheme.

IT IS FURTHER ORDERED that Defendants Wilcox shall advise the Court no later than ten (10) days following the filing of this Journal Entry of Judgment whether the trial to determine the amount of disgorgement, or damages, should be set on the jury or non-jury trial docket.

**PATRICIA G. PARRISH**

Honorable Patricia G. Parrish 10/15/10  
Judge of the District Court

Approved as to Form:



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Amanda Commesser, OBA #20044

Gerri Kavanaugh, OBA #16732

Melanie Hall, OBA #1209

Oklahoma Department of Securities

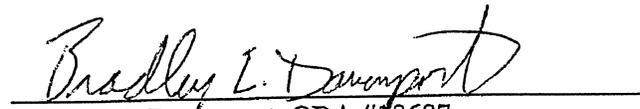
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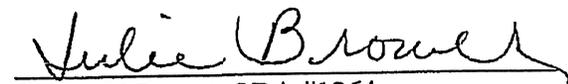
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