

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
 STATE OF OKLAHOMA FILED IN THE DISTRICT COURT
 OKLAHOMA COUNTY, OKLA.

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
 Administrator;)
)
 Plaintiff,)
)
 v.)
)
 Barry Pollard and Roxanne Pollard,)
)
 Defendants and Third Party)
 Plaintiffs,)
)
 v.)
)
 Equitable Life Assurance Society of the)
 United States,)
)
 Third Party Defendants.)

AUG 10 2007
 PATRICIA PRESLEY, COURT CLERK
 by _____ Deputy

Case No. CJ-2005-3799

**HEARING IS SET FOR
 AUGUST 30, 2007 @ 1:30 P.M.**

PLAINTIFF'S MOTION TO VACATE AGREED PROTECTIVE ORDER

This matter is brought before the Court to vacate the agreed protective order between Plaintiff, Oklahoma Department of Securities, *ex rel.* Irving L. Faught, Administrator, and Defendants Barry and Roxanne Pollard (Defendants) for the following reasons:

1. Plaintiff and Defendants entered into an Agreed Protective Order (Order) on December 29, 2006.

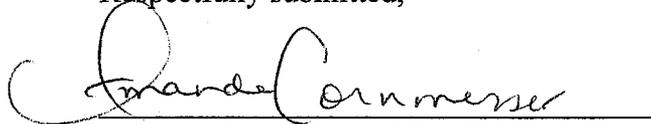
2. To cooperate during discovery, Plaintiff agreed to protect confidential information provided by Defendants. However, the parties agreed that should Plaintiff need to use the protected documents in the course of this litigation, and if Plaintiff cannot reach an agreement with Defendants regarding their use, Plaintiff may petition the Court to use pertinent documents as necessary.

3. Plaintiff attempted to reach an agreement with Defendants via a letter received by counsel on August 3, 2007. Defendants have failed to make a timely response. *See Exhibit A, Letter to counsel regarding Order.* A hearing on Plaintiff's Motion for Summary Judgment is set before this Court on September 27, 2007.

4. In Defendants' response to Plaintiff's *Motion for Summary Judgment*, Defendants have raised issues that can be refuted by Plaintiff through documentation obtained during discovery. Plaintiff agrees to redact the documents to reflect only information relevant to this matter.

WHEREFORE, the Department requests that the Agreed Protective Order be vacated.

Respectfully submitted,

A handwritten signature in cursive script, reading "Amanda Cornmesser", is written over a horizontal line.

Amanda Cornmesser, OBA #20044
Gerri Stuckey, OBA #16732
Melanie Hall, OBA #1209
Oklahoma Department of Securities
120 N. Robinson, Suite 860
Oklahoma City, OK 73120

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August, 2007, I mailed a true and correct copy of the above and foregoing instrument, postage pre-paid to:

Ronald D. Fulkerson
Shawn D. Fulkerson
Carolie E. Rozell
Fulkerson & Fulkerson, P.C.
10444 Greenbriar Place
Oklahoma City, OK 73159

Judy Hamilton Morse
Regan Strickland Beatty
Crowe and Dunlevy
20 N. Broadway, Ste. 1800
Oklahoma City, OK 73102

Amande Cornmesser

IRVING L. FAUGHT
ADMINISTRATOR



BRAD HENRY
GOVERNOR

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES

August 3, 2007

Ms. Carolie Rozell
Fulkerson & Fulkerson, P.C.
10444 Greenbriar Place
Oklahoma City, OK 73159

Re: Oklahoma Department of Securities v. Barry and Roxanne Pollard
Case No. CJ-2005-3799

Dear Ms. Rozell,

The Department has reviewed the Agreed Protective Order (Order) between the Department and your clients. Due to the Defendants' response to the Department's Motion for Summary Judgment, it has become necessary to use documents covered by the Order as exhibits in the Department's reply. The Department hereby proposes the use of certain pertinent documents that are redacted except for any transactions involving Defendants and AXA Advisors, LLC, Equitable Life Insurance, Richard Schubert and/or Marsha Schubert, individually and/or *dba* Schubert and Associates.

In number 5 of the Order, the parties must attempt to reach an agreement regarding the use of documents for purposes of litigation. Please advise the Department by 12:00 p.m. on August 10, 2007, on whether your clients agree to this proposal. Should they not agree, the Department will file a motion with the Court to be set on the August 30, 2007, motion docket. I appreciate your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Cornmesser".

Amanda Cornmesser
Attorney
Oklahoma Department of Securities

