

DISTRICT COURT



FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

FEB 02 2009

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DEPUTY

SEVENTH JUDICIAL DISTRICT, STATE OF OKLAHOMA  
OKLAHOMA COUNTY COURTHOUSE  
OKLAHOMA CITY, OKLAHOMA 73102

PATRICIA G. PARRISH  
DISTRICT JUDGE

TELEPHONE:  
(405) 713-1156

February 2, 2009

VIA FACSIMILE: (405)280-7742  
Ms. Amanda Cornmesser  
Oklahoma Department of Securities  
120 N. Robinson, Suite 860  
Oklahoma City, OK 73102

VIA FACSIMILE: (405)239-6766  
Mr. Grant Lucky  
900 Robinson Renaissance  
119 N. Robinson  
Oklahoma City, OK 73102

Re: *Oklahoma Department of Securities v. Farmers & Merchants Bank, et al.*  
Case No. CJ-6-3311 (District Court of Oklahoma County)

Dear Counselors,

The Court has reviewed Defendant's Motion to Reconsider, Plaintiff's Response thereto, as well as Defendant's Reply. Based upon that review, Defendant's Motion to Reconsider is denied. Plaintiff's claim against Defendant's is authorized pursuant to 71 O.S. 1-509G<sup>1</sup> which provides as follows:

G. The following persons are liable jointly and severally with and to the same extent as persons liable under subsections B through F of this section:

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<sup>1</sup>Plaintiff's claim is also allowed pursuant to the predecessor statute 12 O.S. 408(b) which contains language similar to Section 1-509G.

1. A person that **directly or indirectly controls a person liable under subsections B through F** of this section, unless the controlling person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the conduct by reason of which the liability is alleged to exist; (emphasis added.)

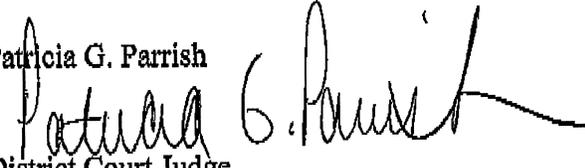
Subsection B<sup>2</sup> provides:

B. A person is liable to a purchaser if the person sells a security in violation of Section 10<sup>3</sup> of this section, **or by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission,...** (emphasis added.)<sup>4</sup>

The Court has also reviewed Plaintiff's Motion to Deem Certain Allegations in Plaintiff's Petition Admitted, Defendants's Response thereto and Plaintiff's reply. Based upon such review, the Court denies Plaintiff's Motion.

Defendant should submit an Order reflecting the Court's ruling in accordance with Local Court Rule 11.

Patricia G. Parrish

  
District Court Judge

cc: Mr. Joseph Bocoek  
VIAFACSIMILE (405)235-0439

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<sup>2</sup>Subsection B is similar to its predecessor found at 71 O.S. 101.

<sup>3</sup>Section 10 refers to 71 O.S. 1-301 which is not applicable to this case.

<sup>4</sup>This language is similar to its predecessor found at 71 O.S. 1-408(a)(2).



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To: Ms. Cornmesser  
+ Mr. Lucky

From: Judge Patricia Parrish

Name: \_\_\_\_\_

Organization Name/Dept.: \_\_\_\_\_

CC: \_\_\_\_\_

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