

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

NOV - 4 2009

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)
)
Plaintiff,)
)
v.)
)
The Estate of Bryan David Roark,)
)
Defendant.)

Case No.

CJ - 2009 - 10905

**PETITION FOR RESTITUTION AND/OR
OTHER EQUITABLE RELIEF**

COMES NOW the Plaintiff, Oklahoma Department of Securities, *ex rel.* Irving L. Faught, (Department), and for its claims against the above-named Defendant, alleges and states as follows:

OVERVIEW

1. This case involves violations of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §1-101 through 1-701 (Supp. 2003), by Bryan David Roark (Roark). Specifically, the Department accuses Roark of issuing, offering and selling unregistered securities in violation of Section 1-301 of the Act and/or perpetrating a fraud in connection with the offer, sale or purchase of securities in violation of Section 1-501 of the Act.

2. At all times material hereto, Roark was registered under the Act as an agent of Morgan Stanley Smith Barney (Morgan Stanley). Roark operated from the Morgan Stanley office in Ada, Oklahoma. Roark died on October 24, 2009.

JURISDICTION

3. The Administrator of the Department brings this action pursuant to Section 1-603 of the Act and is the proper party to bring this action against the Defendant.

4. Pursuant to Sections 1-102 and 1-610 of the Act, Roark, in connection with his activities in the offer, sale, and/or purchase of securities, was subject to the provisions of the Act. By virtue of his transaction of business by contract and otherwise and commission of other acts in this state, Defendant is subject to the jurisdiction of this Court and to service of summons within or outside of this state.

5. Roark engaged in acts and practices in violation of the Act.

NATURE OF THE CASE

6. Beginning as early as 2002, Roark engaged in the issuance, offer, and/or sale of sham securities (Securities) in and/or from the state of Oklahoma to investors (Investors), to include bogus certificates of deposits (CDs).

7. Roark represented to Investors that interest would be paid on the CDs at a specified annual rate. Roark falsely represented that he was authorized by Morgan Stanley to offer and sell the Securities.

8. To purchase the Securities, Roark directed Investors to make their checks payable to Morgan Stanley. Roark deposited the Investor funds into a bank account styled as an account of Morgan Stanley. Roark was not authorized by Morgan Stanley to open and/or maintain the account and he had sole control over the account.

9. Roark did not invest or expend the Investors' funds in any way to generate the promised profits or returns to Investors.

VIOLATIONS OF THE ACT

10. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 9 above.

11. The Securities offered and sold by Roark were not registered under the Act nor were the securities offered and/or sold pursuant to an exemption from registration under Sections 1-201 through 1-203 of the Act.

12. Roark, in connection with the offer, sale, and/or purchase of securities, directly and indirectly, made untrue statements of material fact including, but not limited to, the following matters:

- a. that Roark would provide guaranteed profits or returns when, in fact, Roark did not invest or expend the Investors' funds in any manner to generate such profits or returns;
- b. that Roark purchased CDs paying specific interest rates when in fact such CDs did not exist;
- c. that the CDs were FDIC insured; and
- d. that the CDs were authorized Morgan Stanley products.

13. Roark, in connection with the offer and/or sale of securities, and through the use of untrue statements of material fact, engaged in an act, practice, or course of business that has operated as a fraud or deceit upon Investors.

14. By reason of the foregoing, Roark, directly and indirectly, violated Sections 1-301 and 1-501 of the Act.

PRAYER FOR RELIEF

Roark engaged in acts and practices in violation of the Act and, as a result of these activities, received a substantial amount of money from Investors.

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 1-603 of the Act, the Department prays for the court to grant the following relief:

I.

An order prohibiting Morgan Stanley and Roark's affiliates, agents, servants, employees, assigns and all those persons, directly or indirectly, acting on his behalf, who receive actual notice of the order, by personal service, facsimile or otherwise, and each of them from tampering with, mutilating, altering, fabricating, erasing, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks, tapes or other data recordings of any type, pertaining to or referring to Roark;

II.

An order freezing the assets of the Estate of Bryan Roark and ordering that all banks, depository institutions, brokerage firms, or other financial institutions comply with the Court's order;

III.

An order prohibiting the Estate of Bryan Roark, his affiliates, agents, servants, employees, assigns and all those persons, directly or indirectly, acting on Roark's behalf, who receive actual notice of the order, by personal service, facsimile or otherwise, and each of them from directly or indirectly, transferring, withdrawing, concealing, removing, destroying, or otherwise disposing of any and all assets.

IV.

An order appointing a receiver for the Estate of Bryan Roark, empowering said receiver to marshal and take possession of the books, records, funds and assets of the Estate of Bryan

Roark; to undertake whatever manner of legal or equitable action is required to preserve or maintain the assets of the Estate of Bryan Roark; and to operate or liquidate the assets of the Estate of Bryan Roark for the benefit of the Investors, as equity may require;

V.

An order requiring the Estate of Bryan Roark to make restitution to any and all Investors who purchased securities from Roark or who transferred money to Roark for the purpose of making investments on their behalf; and

VI.

Such other equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
Irving L. Faught, Administrator

By:

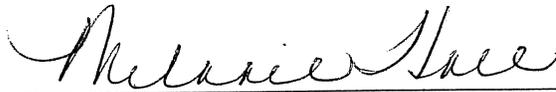


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STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

Melanie Hall, of lawful age, being first duly sworn deposes and says: that she is the Deputy Administrator of the Oklahoma Department of Securities, that she has read the foregoing Petition for Restitution and/or Other Equitable Relief and knows the contents thereof, and that the matters and things stated therein have been provided to her by staff members of the Department under her authority and direction, and are true and correct to the best of her knowledge, information and belief.

(SEAL)



Melanie Hall, DEPUTY ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
(405) 280-7700

Subscribed and sworn to before me this 4th day of November, 2009.

(NOTARIAL SEAL)



Notary Public

