

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY,
STATE OF OKLAHOMA

AUG - 3 2010

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Oklahoma Department of Securities
ex rel. Irving L. Faught,
Administrator,

Plaintiff,

vs.

Firststar Financial Group of Central
Oklahoma, L.L.C., an Oklahoma limited
liability company; John Joseph Hamilton,
an individual; and Robin L. Peck,
an individual,

Defendants.

Case No. CJ-2010-5268

MOTION TO QUASH SUBPOENA

COMES NOW Zachariah J. Stephens ("Stephens") and Mark Brian Stevens ("Stevens," and with Mr. Stephens, the "Respondents")), by and through P.R. Tirrell of P.R. Tirrell, PLLC, and moves the Court to quash the two *District Court Subpoenas* issued by counsel for the Oklahoma Department of Securities (the "subpoenas").

1. On August 2, 2010, Petitioner served a subpoena on Mr. Stephens and Mr. Stevens by leaving a copy of such subpoenas at the office of a Defendant in this action, Firststar Financial Group of Central Oklahoma, L.L.C., compelling the Respondents to appear for deposition on August 6, 2010, at 9 a.m. and 11 a.m., respectively. See subpoenas attached herewith.
2. The Respondents hereby move the Court to quash the subpoenas because 1) the depositions seek to obtain information which could then be used to join the Respondents in this action in violation of Respondents' Fifth Amendment privilege

- against self incrimination, and 2) the short time frame by which the subpoena compels the Respondents to appear places an undue burden upon the Respondents.
3. First, the Fifth Amendment privilege against self incrimination can be claimed during a regulatory (United States Securities and Exchange Commission) investigation and civil enforcement action as long as the claimant has a reasonable basis to believe that an answer to a question will incriminate. *Hoffman v. United States*, 341 U.S. 479, 486-88 (1951). The privilege extends not only to answers that would support a conviction under a criminal statute, but also to those which would furnish a link in the chain of evidence needed to prosecute the claimant. *Id.*
 4. The Petitioner in this action has been granted a temporary injunction against the Defendants hereto, and is seeking a permanent injunction as to the sale of securities as well as restitution to alleged wronged investors and fines of \$50,000.
 5. Answers given by the Respondents in the subpoenaed depositions could incriminate the Respondents, or furnish a link in the chain of evidence needed by the Petitioner to join the Respondents in this pending action and seek the injunctive relief and fines sought against the Defendants. In this regard, the Respondents invoke their Fifth Amendment right against self incrimination and respectfully move the Court to quash the pending subpoenas. *See also*, 12 O.S. § 2004.1(C)(3)(a)(3) “[o]n timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it... requires disclosure of privileged or other protected matter and no exception or waiver applies,....”
 6. Second, the short time frame by which the subpoena compels the Respondents to appear places an undue burden upon the Respondents. 12 O.S. § 2004.1(C)(3)(a)(1)

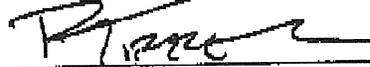
and (4). The Petitioner has been aware of one of the alleged investment programs in this action since mid to late 2007, and has been aware of the other alleged investment program since mid to late 2008. At no time prior to this action, nor prior to the temporary injunction entered in this action, has the Petitioner sought to interview, depose, or seek documents or information from either Respondent. Further, Respondent Zachariah J. Stephens is currently scheduled to be out of state with family on August 6, 2010, the date that Petitioner seeks to depose him.

7. Respondents seek costs and attorneys fees pursuant to 12 O.S. § 2004.1(C)(1).

WHEREFORE, Respondents request that the Court quash Petitioner's subpoenas, grant Respondents costs and attorneys fees, and order any and all further relief that the Court deems just and equitable.

Dated: August 3, 2010

Respectfully submitted,
P.R. TIRRELL, PLLC



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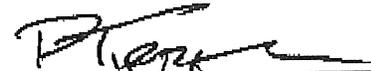
CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was served on the following parties or their counsel of record, as indicated below, on the 3rd day of August, 2010:

Via facsimile and first class mail:

Patricia A. Labarthe, Esq.
Jennifer Shaw, Esq.
Oklahoma Department of Securities
120 N. Robinson, Suite 860
Oklahoma City, OK 73102

Brooks A. Richardson, Esq.
Fellers, Snider, Blankenship,
Bailey & Tippens
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820
Attorneys for Robin Peck


P.R. Tirrell

THIS MOTION IS SET FOR HEARING ON 9/3, 2010.

@ 9 am.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)

Plaintiff,)

v.)

Case No. CJ-2010-5268

Firststar Financial Group of Central)
Oklahoma, LLC, an Oklahoma limited)
liability company; John Joseph Hamilton,)
an individual; and Robin L. Peck,)
an individual,)

Defendants.)

DISTRICT COURT SUBPOENA

TO: Zachariah J. Stephens
21480 Lake Shadows Drive
Edmond, OK 73012

GREETINGS: You are hereby commanded to appear in the offices of Word for Word Reporting, LLC, 100 North Broadway Avenue, Suite 3250, Oklahoma City, Oklahoma, on Friday, August 6, 2010, at 9:00 a.m., to testify as a witness in a deposition in the above-referenced case. The deposition shall be recorded by stenographic means.

Hereof Fail Not under penalty of law.

IN WITNESS WHEREOF, I have hereunto set my hand and affirmed my seal of the District Court, this 30th day of July, 2010.

PATRICIA PRESLEY, Court Clerk

By Patricia A. Labarthe

Patricia A. Labarthe, #10391
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
405/280-7735

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STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
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 Plaintiff,)
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 v.)
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 Firststar Financial Group of Central)
 Oklahoma, LLC, an Oklahoma limited)
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 an individual; and Robin L. Peck,)
 an individual,)
)
 Defendants.)

Case No. CJ-2010-5268

DISTRICT COURT SUBPOENA

TO: Mark Brian Stevens
13903 North May Avenue
Oklahoma City, OK 73120

GREETINGS: You are hereby commanded to appear in the offices of Word for Word Reporting, LLC, 100 North Broadway Avenue, Suite 3250, Oklahoma City, Oklahoma, on Friday, August 6, 2010, at 11:00 a.m., to testify as a witness in a deposition in the above-referenced case. The deposition shall be recorded by stenographic means.

Hereof Fail Not under penalty of law.

IN WITNESS WHEREOF, I have hereunto set my hand and affirmed my seal of the District Court, this 30th day of July, 2010.

PATRICIA PRESLEY, Court Clerk

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