

IN THE DISTRICT COURT OF LOGAN COUNTY  
STATE OF OKLAHOMA

STATE OF OKLAHOMA  
LOGAN COUNTY SS  
FILED FOR RECORD

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BY \_\_\_\_\_ DEPUTY

Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Marsha Schubert, an individual and )  
*dba* Schubert and Associates; )  
Richard L. Schubert, an individual and )  
*dba* Schubert and Associates; and )  
Schubert and Associates, )  
an unincorporated association, )  
 )  
Defendants. )

Case No. CJ 2004-256

**APPLICATION FOR CITATION OF INDIRECT CONTEMPT**  
**AGAINST BARRY POLLARD**

Plaintiff, Oklahoma Department of Securities (“Department”) *ex rel.* Irving L. Faught, Administrator, hereby accuses Defendant Barry Pollard (“Pollard”) of knowingly, willfully and contemptuously disobeying and violating this Court’s lawfully issued *Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets and Order for Accounting* (“Temporary Restraining Order”), against Marsha Schubert, Richard L. Schubert and Schubert and Associates. The Department alleges and states:

1. On October 14, 2004, this Court entered the Temporary Restraining Order against the named defendants for violations of Oklahoma securities laws and appointed a receiver (Receiver). On November 15, 2004, a Permanent Injunction

("Permanent Injunction") was issued by this Court against Defendants Marsha Schubert and Schubert and Associates (Defendants).

2. Page 7 of the Temporary Restraining Order provides as follows:

IT IS FURTHER ORDERED that *except by leave of Court during the pendency of the receivership, all creditors and other persons seeking money, damages, or other relief from Defendants*, and all others acting on behalf of any such creditor or other persons, including sheriffs, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees, *are hereby stayed and restrained from doing any act or thing whatsoever to interfere with the orderly transfer of the Receivership assets to the Receiver or with the possession of or management by the Receiver of the Receivership assets*, or to interfere in any manner during the pendency of this proceeding with the exclusive jurisdiction of this Court over Defendants. (Emphasis added.) See Exhibit A.

Page 4 of the Permanent Injunction provides as follows:

IT IS FURTHER ORDERED that pending determination of the amount of restitution to be paid, the assets of Marsha Schubert, individually and doing business as Schubert and Associates, and Schubert and Associates continue to be frozen, as specified in the Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets and Order for Accounting issued by this Court on October 14, 2004.

IT IS FURTHER ORDERED that pending determination of the amount of restitution to be paid by Marsha Schubert, individually and doing business as Schubert and Associates, and Schubert and Associates, the Receiver shall continue to exercise that authority granted by the Temporary Restraining Order.

3. Following this Court's issuance of the Temporary Restraining Order and Permanent Injunction (collectively "Orders"), Pollard filed a civil petition on March 4, 2005, against Defendants without leave of Court and without providing notice to Plaintiff. (Logan County District Court Case No. CJ-2005-71).
4. On March 14, 2005, the Receiver sent Pollard a demand letter for the debt the Receiver claims Pollard owes to the Receivership. See Exhibit A. Pollard's remedies included disputing the debt to the Receiver and/or submitting a claim

- with the Receiver for any losses he believed he suffered because of the Defendants' actions. Pollard did not comply with either remedy available to him.
5. Pollard failed to pay the debt to the Receivership in whole or in part and on May 11, 2005, Plaintiff sued Pollard in Oklahoma County District Court claiming Pollard was unjustly enriched in the amount of \$386,158.
  6. On June 14, 2005, this Court entered a default judgment in Case No. CJ-2005-71 against Defendants and subsequently awarded money damages to Pollard in the amount of \$827,000 (Pollard's Default Judgment).
  7. On June 29, 2007, the Receiver sold assets owned by Marsha Schubert in Logan County, Oklahoma, by auction. One property sold for \$31,900. *See* Exhibit B. The Receiver cannot collect the proceeds from the sale of this property due to a lien secured by Pollard pursuant to the Pollard's Default Judgment (Pollard's Lien). The lien was secured by Pollard without leave of this Court and impairs the marketability of title to this receivership asset.
  8. The Receiver has been ordered by this Court to retain exclusive custody, control, and possession of all assets of the Defendants and to conserve, hold and manage the assets pending further action by this Court to prevent any irreparable loss, damage, or injury to investors. Because the Receiver cannot collect the proceeds from the sale of the property, Pollard's Lien has caused further injury to the investors who are awaiting receipt of a distribution from the Receivership.
  9. Pollard's conduct described herein interferes with the possession of or management by the Receiver of a Receivership asset. Such conduct violates this

Court's Temporary Restraining Order and Permanent Injunction and constitutes indirect contempt.

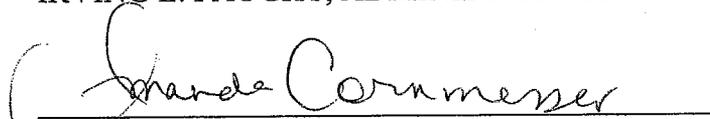
10. Prior to filing this application, the Department notified Pollard that his conduct violated the Orders and requested that Pollard voluntarily release the lien. Pollard declined to do so.

Wherefore, the Department requests that this Court issue a citation directing Pollard to appear and show cause why he should not be held in contempt and, after a full and complete hearing, that Pollard be adjudged guilty of indirect contempt for failure to comply with the Orders entered by this Court, and punished by and through such relief as this Court deems appropriate.

Respectfully Submitted,

OKLAHOMA DEPARTMENT OF SECURITIES  
IRVING L. FAUGHT, ADMINISTRATOR

By:



Amanda Cornmesser, OBA #20044  
Gerri L. Stuckey, OBA #16732  
Oklahoma Department of Securities  
120 N. Robinson, Suite 860  
Oklahoma City, OK 73102  
(405) 280-7700

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11<sup>th</sup> day of September, 2007, a true and correct copy of the foregoing was mailed by first class mail with postage prepaid thereon addressed to:

Mr. David G. Trojan  
Field, Trojan, Long & Sedbrook, P.C.  
106 W. Randolph  
P.O. Box 5676  
Enid, OK 73702

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

Grande Commence

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VANCE T. NYE

KARIG P. CULVER  
BRADLEY E. DAVENPORT  
BRENDON S. ATKINSON  
CHAD N. DAVIS

R.L. MCKNIGHT -- of counsel

WRITER'S DIRECT E-MAIL ADDRESS:  
[davenport@enidlaw.com](mailto:davenport@enidlaw.com)

August 25, 2005

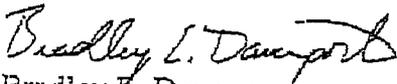
Barry and Roxanne Pollard  
102 S Van Buren St  
Enid, OK 73703-5866

Re: Oklahoma Dept. of Securities v. Marsha Schubert, et al.  
Logan County, Case No. CJ-2004-256

Dear Mr. and Mrs. Pollard:

This law firm has received your request for documents supporting the debt that the Receiver claims you owe pursuant to the March 18, 2005 demand letter. The documents supporting the debt are attached to this letter for your reference. If you still dispute the debt after receipt of the enclosed materials, please address your dispute to this office in writing and attach all documents that support your position. This office will review any documents you submit in support of your position. However, please be advised that by providing you with the documents verifying the debt, this office may proceed to recover the debt on behalf of the Receiver.

Sincerely,

  
Bradley E. Davenport

Enclosures

GUNGOLL-JACKSON IS SENDING THIS NOTICE AS A  
DEBT COLLECTOR ON BEHALF OF  
DOUGLAS L. JACKSON, RECEIVER FOR THE SCHUBERT AND ASSOCIATES  
INVESTMENT PROGRAM.  
THIS IS AN ATTEMPT TO COLLECT A DEBT.  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

EXHIBIT

tabbies

A

### Logan County Abstract Company, Inc.

Agent File. No. 177089

#### SCHEDULE A

1. Effective date: JULY 20, 2007 AT 7:00 A.M.

2. Policy or Policies to be issued:

(a)	ALTA Owners Policy-Form B (4/6/90)	\$31,900.00	\$150.00
	Proposed Insured: CHAPPELL PROPERTIES, LLC		

(b) ALTA Loan Policy-(4/6/90)

Proposed Insured:

3. Title to the fee simple estate or interest in said land is at the effective date hereof vested in:

*DOUGLAS L. JACKSON, IN HIS CAPACITY AS COURT-APPOINTED RECEIVER FOR MARSHA SCHUBERT AND SCHUBERT AND ASSOCIATES*

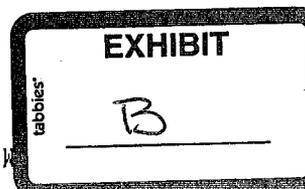
4. The land referred to in this Commitment is described as follows:

*Lot Ten (10), Block Sixteen (16) in the TOWN OF CRESCENT, commonly referred to as the TOWN OF NEW CRESCENT, Logan County, Oklahoma, according to the recorded plat thereof.*

#### SCHEDULE B

PART I. The following are the requirements to be complied with:

1. Submit proof of the payment to, or for the account of grantors and/or mortgagors of the full consideration for the estate or interest to be insured.
2. Proper documents creating the estate or interest to be insured must be executed and duly filed for record.
3. Obtain a court search as to any entity taking title subsequent to date of this commitment and satisfy any judgments or liens which might affect the subject property and have releases thereof, filed of record.
4. Return properly executed Lien Affidavit and Indemnity to the Company, and if required, satisfactory evidence that all bills for labor and materials furnished for the improvements of said premises have been or will be paid. (OWNER/SELLER, BUYER/BORROWER AFFIDAVIT)
5. At page 104 of the abstract appears the Deed to Douglas L. Jackson, in his capacity as court-appointed receiver for Marsha Schubert and Schubert and Associates. The Deed is incorrect. Grantor's marital status is not shown. REQUIREMENT: Obtain, Secure and Record a corrected Deed with Grantor's Marital Status. If Grantor was married at the time



he executed the Deed his wife needs to be added and sign the said deed.

**REQUIREMENT:** Obtain, Secure and record Receivership granted by the Court to Douglas L. Jackson.

6. Obtain, Secure and file of record, Release and Satisfaction of Case No. CJ-2005-71, Affidavit of Judgment, (Money Judgments only) Judgment Lien (JL 05-143), Barry L. Pollard, vs. Marsha Schubert, dba, Schubert & Associates in the amount of \$827,000.00, dated 7/14/2005, filed with Clerk 7/19/2005.

7. Obtain, Secure and file of record, Release and Satisfaction of Case No. CR-05-78-HE, Judgment in favor of DEPARTMENT OF JUSTICE in the amount of \$9,114,647.00, plus penalty and interest, JL-05-237, against Marsha Kay Schubert, dated 9/7/2005, filed with Clerk 12/7/2005.

8. Obtain, Secure and file of record, Release and Satisfaction of the following Tax Warrants:

a) Tax Warrant #ITI2005005732-00 (TW-05-80) in favor of OKLAHOMA TAX COMMISSION in the amount of \$55,285.56, plus penalty and interest, against Marsha K. Schubert, dated 1/15/2005, filed 11/16/2005, recorded in Book 1891 Page 478.

b) Tax Warrant #ITI2005005843-00 (TW-05-88) in favor of OKLAHOMA TAX COMMISSION in the amount of \$16,386.83, plus penalty and interest, against Marsha K. Schubert, dated 1/23/2005, filed 11/23/2005, recorded in Book 1893 Page 236.

c) Tax Warrant #ITI2005006061-00 (TW-05-91) in favor of OKLAHOMA TAX COMMISSION in the amount of \$110,734.06, plus penalty and interest, against Marsha K. Schubert, dated 12/6/2005, filed 12/9/2005, recorded in Book 1895 Page 611.

9. Obtain, Secure and file of record, Warranty Deed from Douglas L. Jackson, in his capacity as court-appointed receiver for Marsha Schubert and Schubert and Associates, vesting title into Chappell Properties, LLC.

10. Provide a satisfactory survey of the subject premises made in accordance with Minimum Standard Detail Requirements and Classifications for ALTA/ACSM Land Title Surveys, revised 2005 (the Survey Standards) including Items 6 (excluding set back, height, and bulk restrictions set forth in zoning or building codes), 8, 9, 10, 11, and 13, as set forth in Table A of the Survey Standards.

11. Final policy cannot be issued unless abstract certificate date which is July 20, 2007 at 7:00 a.m. is no more than 180 days from the recorded date of the instruments to be insured or abstract must be extended to date resulting in additional charges.

12. Upon payment of charges, policy will be issued.

This Commitment not valid unless SCHEDULE B Part I is attached.  
PART II. Schedule B of the policy or policies to be issued will contain exceptions to the following the same are disposed of to the satisfaction of the Company:

#### STANDARD EXCEPTIONS

1. Rights or claims of parties in possession not shown by the public records.