

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

OCT 30 2001

PATRICIA PRESLEY, COURT CLERK
by _____
Deputy

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

v.)

Case No. CJ-2000-5851

Broadband Wireless International)
Corporation, formerly Black Giant Oil)
Company, a Nevada corporation, Broadband)
Wireless Communications Corporation,)
an Oklahoma corporation, Black Giant)
Resources Corporation, an Oklahoma)
Corporation, Broadcom Wireless)
Communications Corporation, an Oklahoma)
corporation, Donald L. Knight, an)
individual, Ivan Webb, an individual,)
Tommy K. Hill, an individual,)

Defendants,)

v.)

DLK Family Trust, Kimberly Knight,)
)
Relief Defendants.)

**MOTION FOR DEFAULT JUDGMENT
AND BRIEF IN SUPPORT**

Plaintiff, Oklahoma Department of Securities ex rel. Irving L. Faught,
Administrator, moves this Court to enter judgment by default in its favor and against Ivan
Webb ("Defendant").

I.

Summary of Action

Plaintiff filed a Petition for Permanent Injunction and other Equitable Relief ("Petition") against Defendant. In its Petition, Plaintiff alleged that Defendant, in connection with the offer, sale or purchase of securities in this state, violated: (a) Section 101(1) of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-17, 101-103, 201-204, 301-307, 401-413, 501, 701-703 (1991 and Supp. 2000), by employing a device, scheme, or artifice to defraud; (b) Section 101(2) of the Act by making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) Section 101(3) of the Act by engaging in acts, practices and a course of business which operated as a fraud or deceit upon investors.

II.

Default Judgment is Appropriate

Plaintiff's Petition was filed on August 11, 2000. Plaintiff served Defendant with process by mailing a copy of the summons and Petition by certified mail, return receipt requested, and delivery restricted to Defendant. The process was received and accepted by Defendant on August 14, 2000. [See Exhibit A attached hereto]. To date, Defendant has failed to file an answer and his time for doing so has expired.

Okla. Stat. tit. 12, § 2008.D (1991 & Supp. 1999) pertaining to the general rules of pleading states: "Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damages, are admitted when not denied in the responsive pleading."

Plaintiff's Petition alleges that Defendant violated subsections (1) through (3) of Section 101 of the Act. As provided by Okla. Stat. tit. 12, § 2008.D and based on

Defendant having not answered the allegations in Plaintiff's Petition, such averments must be deemed admitted by Defendant.

III.

Plaintiff's Requested Relief is Appropriate

In its Petition, Plaintiff requested that this Court permanently enjoin Defendant from further and future violations of subsections (1) through (3) of Section 101 of the Act. Plaintiff also requested that this Court order such relief as deemed just and equitable in connection with the enforcement of the Act.

Enforcement of the Act by the Court is specifically provided for in Section 406.1 of the Act that provides in part:

(a) Upon a showing by the Administrator that a person has violated or is about to violate the Oklahoma Securities Act, except under the provisions of Section 202.1 or 305.2 of this title, or a rule or order of the Administrator under the Oklahoma Securities Act or that a person has engaged or is about to engage in dishonest or unethical practices in the securities business, the Administrator, prior to, concurrently with, or subsequent to an administrative proceeding, may bring an action in the district court of Oklahoma County or the district court of any other county where service can be obtained on one or more of the defendants and the district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(1) Upon a showing of a violation of the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or conduct involving dishonest or unethical practices in the securities business:

(i) a temporary restraining order, **permanent or temporary prohibitory or mandatory injunction**, or a writ of prohibition or mandamus;

(ii) a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or of Fifty Thousand Dollars (\$50,000.00) for multiple violations in a single proceeding or a series of related proceedings;

(iii) a declaratory judgment;

(iv) restitution to investors;

(v) the appointment of a receiver or conservator for the defendant or the defendant's assets; and

(vi) other relief the court deems just (emphasis added).

A. Permanent Injunction

Once the Plaintiff has shown the Defendant's past conduct is in violation of the Act, the proper test for the issuance of a statutory injunction is whether there is a reasonable expectation of future violations by Defendant. S.E.C. v. Manor Nursing Centers, Inc., 458 F.2d 1082 (2nd Cir. 1975); S.E.C. v. Culpepper, 270 F.2d 241, 249 (2d Cir. 1959). In considering this issue, past illegal conduct is strong support for the likelihood of future violations. Oklahoma Securities Commission v. CFR International, Inc., 1980 OK CIV APP 60, ¶ 13; 622 P.2d 293, 295 (Okla. Ct. App. 1980). As described above and in the Petition, Defendant has violated the Act, creating a presumption of a likelihood of future violations. Because Plaintiff has conclusively demonstrated the existence of past violations, injunctive relief is appropriate and the burden of showing that there is no reasonable expectation of future violations will shift to the Defendant and his burden "is a heavy one." S.E.C. v. Culpepper, 270 F.2d 241, 249 (2d Cir. 1959).

Further, unlike private actions for injunctions, Plaintiff's action is a creature of statute subject to a standard of review different from the traditional equitable injunction. Because of the statutory basis for such action, no showing of irreparable injury or the inadequacy of other remedies, as in a private injunctive action, is required. CFR International, Inc., at ¶ 14; 622 P.2d at 295 (citing Bradford v. S.E.C., 278 F.2d 566 (9th

Cir. 1960)); S.E.C. v. Torre, 87 F.2d 449, 450 (2d Cir. 1937). Although not required, Plaintiff has also shown that the public will suffer irreparable injury if Defendant is not enjoined from further violations of the Act.

B. Civil Penalty

Section 406.1(a)(1) of the Act specifically grants the Court the authority to impose a civil penalty upon a showing by the Administrator of a violation of the Act. Violations of the Act have been shown by Plaintiff and admitted through Defendant's failure to answer.

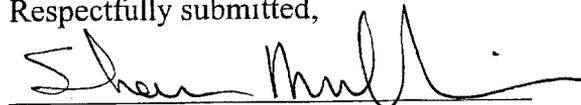
The allegations in the Petition having been admitted, Plaintiff has established a sufficient basis for the issuance of a permanent injunction and the imposition of a civil penalty payable to the Oklahoma Department of Securities.

IV.

Conclusion

Plaintiff respectfully requests that the Court enter judgment in its favor and issue a Permanent Injunction forever enjoining Defendant from further and future violations of subsections (1) through (3) of Section 101 the Act. Plaintiff further requests that the Court impose a civil penalty against Defendant in the amount of Fifty Thousand Dollars (\$50,000.00) payable to the Oklahoma Department of Securities.

Respectfully submitted,



Shaun M. Mullins (OBA #16869)
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
(405) 280-7700
(Attorney for Plaintiff)

CERTIFICATE OF SERVICE

On the 30th day of October, 2001, a true and correct copy of the Motion for Default Judgment and Brief in Support, was mailed via U.S. Mail, postage prepaid, to:

Broadband Wireless International Corporation
c/o Peter B. Bradford, Receiver
One Leadership Square
211 North Robinson, Suite 1750
Oklahoma City, OK 73102

Donald L. Knight
1003 St. Andrews Drive
Edmond, OK

Broadband Wireless Communications Corporation
c/o Peter B. Bradford, Receiver
One Leadership Square
211 North Robinson, Suite 1750
Oklahoma City, OK 73102

Richard M. Hewitt, Esq.
Richard M. Hewitt, P.C
300 Trophy Club Drive, Suite 700
Trophy Club, TX 76262

Black Giant Resources Corporation
c/o Peter B. Bradford, Receiver
One Leadership Square
211 North Robinson, Suite 1750
Oklahoma City, OK 73102

Tommy K. Hill
2029 Chadds Ford Drive
Reston, VA 20191

Broadcom Wireless Communications Corporation
c/o Peter B. Bradford, Receiver
One Leadership Square
211 North Robinson, Suite 1750
Oklahoma City, OK 73102

DLK Family Trust
1003 St. Andrews Drive
Edmond, OK 73003

Kimberly Knight
1003 St. Andrews Dr.
Edmond, OK 73003

Ivan Webb
901 West 6th Street
Cisco, TX 76437



Shaun M. Mullins

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities
ex rel. Irving L. Faught,
Administrator)
Plaintiff,)
Broadband Wirelss)
International Corporation)
et al.)
Defendant.)

No. CJ-2000-5851

Ivan Webb
901 West 6th Street
Cisco, TX 76437

SUMMONS

To the above-named Defendant:

You have been sued by the above-named plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 11 day of Aug, 2000.

PATRICIA PRESLEY, COURT CLERK

By *Cheryl Huber*
Deputy Court Clerk

(Seal)

Attorney(s) for Plaintiff(s):

Name Shaun Mullins

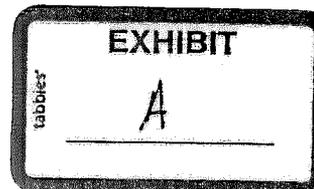
Address Oklahoma Department of Securities
The First National Center, Suite 860
120 North Robinson

Oklahoma City, OK 73102

Telephone Number 405/280-7700

This summons was served on _____
(date of service)

Signature of person serving summons



YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED

**RETURN OF SERVICE BY SHERIFF
PERSONAL SERVICE**

No. _____

I certify that I received the foregoing summons on the _____ day of _____, 19____
and that I delivered a copy of said summons with a copy of the petition attached to each of the
following named defendants personally in _____ County at the address and on
the date set forth opposite each name, to wit:

Name of Defendant	Address	Date of Service
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

USUAL PLACE OF RESIDENCE

I certify that I received the foregoing summons on the _____ day of _____, 19____
and that on _____ I served _____ by leaving
a copy of said summons with a copy of the petition attached at _____
which is his usual place of residence with _____, a member of his family
fifteen (15) years of age or older.

CORPORATION RETURN

Received this summons this _____ day of _____, 19____ and as commanded therein,
I summoned the within _____ named defendant, as follows, to wit:

a corporation, on the _____ day of _____, 19____ by delivering a true and correct copy
of the within summons hereof with endorsements thereon and a copy of the petition, to _____
he being the _____ of said corporation, and the _____
President, Vice-President, Secretary, Treasurer or other chief officer not being found in said county.

NOT FOUND

Received this summons this _____ day of _____, 19____. I certify that
the following persons of the defendant _____ within named not found in county: _____

FEEES

Fee for service \$ _____, Mileage \$ _____, Total \$ _____

Dated this _____ day of _____, 19____.

_____, Sheriff
By _____, Deputy
County, Oklahoma

CERTIFICATE OF SERVICE BY MAIL

I certify that I mailed copies of the foregoing summons with a copy of the petition attached to the
following named defendants at the address shown by certified mail, addressee only, return receipt
requested, on the 11 day of August, 192000, and receipt thereof on the dates shown:

Defendant	Address Where Served	Date Received
Ivan Webb	901 West 6th Street Cisco, TX 76437	8-15-00
_____	_____	_____
_____	_____	_____

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Ivan Webb
901 W. 6th Street
Cisco, TX 76437**

Pet-Sum/00-125/SMM:bs1

2. Article Number (Copy from service label)

R049091689

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **Ivan Webb** B. Date of Delivery **8-15-00**
C. Signature **Ivan Webb** Agent Addressee
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes