

**STATE OF OKLAHOMA**  
**DEPARTMENT OF SECURITIES**



**ODS File No. 11-076**

*Respondent's Motion to Vacate - Number Two*

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
FIRST NATIONAL CENTER, SUITE 860  
120 NORTH ROBINSON  
OKLAHOMA CITY, OKLAHOMA 73102

*In the Matter of:*

Richard W. Possett, Sr., d/b/a The Navigator Group,

Pro se Respondent

ODS File No. 11-076

**PRO SE RESONDENT'S, RICHARD W. POSSETT, SR., MOTION TO  
VACATE ORDER AND CLOSE COMPLAINT FILE WITH PREJUDICE  
NUMBER TWO**

TO: Mr. Irving L. Faught, Administrator  
Oklahoma Department of Securities  
120 North Robinson Ave, Suite 860  
Oklahoma City, OK 73102  
ATTENTION: Ms. Brenda London

Pursuant to Section 660:2-9-3 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Paragraph (c) Items (1) through (4) "Motions in General," Respondent hereby moves the Administrator to vacate the Order to Cease and Desist ("Order") and close the Complaint file with prejudice. The bases for these Motions are set forth below.

**BACKGROUND**

1. On May 19, 2011, Complainant Blankenship filed a Complaint with ODOS. Complainant has from time-to-time updated the Complaint with additional documentation, more

specifically the “Timeline and Summary of Gabriele Blankenship” a.k.a. “Timeline and Summary of Blankenship Investments” [“Timeline & Summary”].

2. On April 30, 2012, ODOS issued an Order to Cease and Desist (“Order”) to Respondent Possett.

3. On this date, September 26<sup>th</sup>, 2012, Respondent has filed Motions to Dismiss Number One and Three and a Request for Exemption.

4. Now comes, Respondent petitioning the Administrator to vacate the Order and close the Complaint file with prejudice.

### ARGUMENTS

In the alternative to Motions Number One and Three, Respondent states and moves as follows:

A. In the event that the Administrator were to erroneously conclude that casual custodianship of one stock certificate, for one person, on one occasion, held personally in safekeeping, constitutes effecting a securities transaction, then Respondent would seek recourse in Article 1, Section 1-102, Subsection 4 of the Act. The Act defines a broker-dealer as . . . “a person engaged in the business of effecting transactions in securities . . .” (emphasis added). In the first case, Respondent was not in the securities business. The Order at most specifies a single supposed effected transaction, and while the activity in question was one of mere custodianship, a single-solitary non-compensative act could not possibly be construed as a business. In the normal course of business for a going concern, the standard commercial activities would include, but may not be limited to, a myriad of securities’ transactions effected for a profit, general securities sales and marketing, control and supervision, promotional

literature, advertising, media, negotiations, buy-sell orders, confirmations, settlements, client bank accounts, and the movement of monies. No such commercial activities occurred for general securities, and as such Respondent was by definition not in the securities business. Furthermore, the performance of such commercial activities as listed above still does not necessitate a business. A one-time single-solitary, personal and private, act cannot possibly constitute a business unless the Administrator assumes a strange and unique definition. By analogy, an individual who sells an old car is not by definition in "the Used Car business" and therefore subject to regulation by the state as a Used Car Dealer. Furthermore, all persons engaged in online auctions on internet sites such as eBay are not by definition "in the Retail business." Such a definition of business is clearly nonsensical, and as such the Order does not comply with the Act and must be vacated. Finally, the Act specifies that there must be transactions, plural meaning more than one. Since the transaction in question was a single-solitary activity the Order does not comply with the Act and must be vacated.

- B. Even if the Administrator were to erroneously conclude that a single-solitary casual custodial act constituted being "in the securities business," Article 2, Section 1-202, Subsection 1 of the Act states that "An isolated nonissuer transaction, whether effected by or through a broker-dealer or not" is "exempt from the requirements of Section 10" of the Act. Section 1-301 lists, among other things, the requirements that a broker-dealer be registered, the sole transgression claimed in the Order (that Respondent acted as an unregistered broker-dealer). Because Respondent is not an issuer of the security in question, and because the alleged transaction constitutes an isolated incident, the

Order is invalid under the Act and must be vacated post haste.

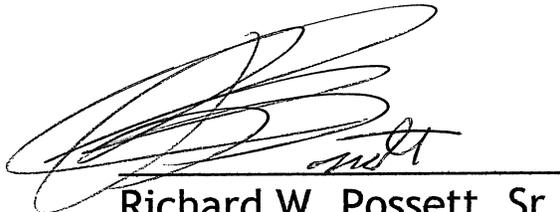
- C. Indeed, if the Administrator were to ignore or disagree that the transaction in question is exempt under Section 1-201 of the Act, then Respondent posits that the alleged ODOS transaction occurred between two private individuals that are involved in civil litigation having like-same issues and the alleged subject transaction was innocuous to the general public in the State of Oklahoma. The Administrator shall not take action when the acts, activities, or matters complained of are merely matters of private controversy and do not tend to adversely affect the public [660:2-7-1]. Respondent was not and did not engage in the business of effecting securities. For this reason alone the Order must be vacated.

### CONCLUSION

For the reasons stated above, Respondent's Motion to Vacate Order and Close File with Prejudice should be granted.

Respectfully Submitted

Dated this 26<sup>th</sup> day of September, 2012



Richard W. Possett, Sr.  
Pro se Respondent  
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## CERTIFICATE OF SERVICE

I hereby certify that I served, on this 26<sup>th</sup> day of September, 2012, a true and correct copy of Respondent's, Richard W. Possett, Sr., Motion to Vacate Order and Close Complaint File with Prejudice Number Two on the Administrator of ODOS, by mailing it, first class mail, sufficient postage attached thereon to:

Mr. Irving L. Faught, Administrator  
Oklahoma Department of Securities  
120 North Robinson Ave, Suite 860  
Oklahoma City, OK 73102  
ATTENTION: Ms. Brenda London



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