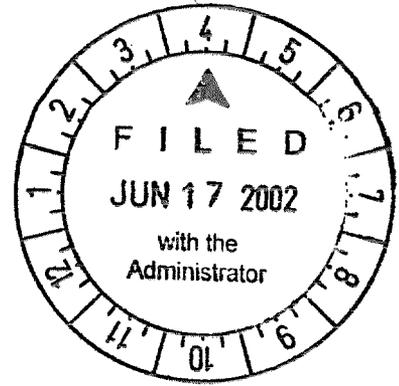


**STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
ADMINISTRATOR
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102**



In the Matter of:

Southmark of Tulsa, Inc.,
Wendell D. Belden,
Gertrude M. Edwards,
Dieta Brown, and
Cannon Ferrell

RESPONDENTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Come Now the Respondent and move for judgment on the issue of the Oklahoma Department of Securities' prayer for a Cease and Desist Order against Southmark and Cannon (Cannen) Ferrell.

The Department does not have the authority to issue a cease and desist order. The District Court of Oklahoma must hear such orders. In *Marley v. Cannon* 1980 OK 147, 618 P.2d 401, the Oklahoma Supreme Court stated:

"There is no express authority within the Oklahoma Securities Act for the issuance of cease and desist orders. The Act does, however, expressly provide for the enforcement of its provisions by an action in district court."

The Court went on to say: "The issuance of cease and desist orders by the Administrator or the Commission is not a necessary practice in effectuating the purposes of the Oklahoma Securities."

The Court concluded:

"The findings, conclusions and the cease and desist order, all contained in the same document are styled "FINDINGS OF FACT, CONCLUSIONS OF LAW, OPINION AND ORDER TO CEASE AND DESIST." It is executed by the Administrator, has the official seal of the Commission, and has the appearance of a legally binding judicial document. The order does not merely advise the Appellees that their activities fall within the purview of the Securities Act or that they are in violation of the Act, but it is clearly prohibitory. The Administrator and the Commission do not have the statutory authority to issue such an order, with or without an administrative [618 P.2d 406] hearing, and the authority to do so cannot be fairly implied. The district court correctly enjoined the Administrator and the Commission from issuing such orders."

The Respondents request judgment on the issue of the Department's request for a cease and desist order.

Respectfully Submitted,



Steven L. Hunt
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918-492-5541

CERTIFICATE OF SERVICE

I, Steven L. Hunt, hereby certify that on the date reflected below, I served the above and foregoing Document by mailing a true and correct copy of said document, with first class postage fully prepaid, to:

THE OKLAHOMA DEPARTMENT OF SECURITIES
First National Center, Suite 860
Attn: Rebecca Cryer
120 North Robinson
Oklahoma City, Oklahoma 73102

On this 14th Day of June, 2002.



Steven L. Hunt OBA #4495
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