

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

MAR 26 2010

MICHAEL S. RICHIE  
CLERK

OKLAHOMA DEPARTMENT OF )  
SECURITIES, )  
 )  
Plaintiff/Appellee, )  
vs. )  
 )  
JEFF BURKE, )  
 )  
Appellant, )  
 )  
And )  
 )  
STEPHEN J. MORIARTY, Court )  
Appointed Special Master for Heritage )  
Estate Services, LLC, an Oklahoma limited )  
liability company, )  
 )  
Appellee. )

No. DF-108101

RESPONSE TO PETITION IN ERROR

Is appellee willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250?

X  YES   NO

Attach as exhibit "A" appellee's statement of the case *not to exceed one 8 1/2" x 11" double spaced page* if not clearly set out by appellant in petition in error.

In accelerated appeals from orders granting motion for summary judgment or motion to dismiss **only** appellee shall also file concurrently with response any supplement to record on accelerated appeal. See Rule 1.36.

DATE: March 25, 2010

Verified by: 

(Signature of Attorney or Pro Se Party)  
STEPHEN J. MORIARTY (OBA #6410)  
FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS, P.C.  
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SPECIAL MASTER

**CERTIFICATE OF MAILING TO ALL PARTIES AND  
COURT CLERK**

I hereby certify that a true and correct copy of the Response to Petition in Error was mailed this 26th day of March, 2010 to

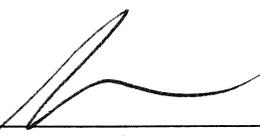
Patricia A. Labarthe, Esq.  
Jennifer Shaw, Esq.  
Oklahoma Department of Securities  
120 N. Robinson, Suite 860  
Oklahoma City, OK 73102

Jeff Burke  
2512 Covell Lane  
Edmond, OK 73034

by depositing it in the U.S. Mails, postage prepaid.

I further certify that a copy of the Response to Petition in Error was mailed to, or filed in, the Office of the Court Clerk of Oklahoma County, Oklahoma on the 26th day  
(Court Clerk or Other Tribunal)

of March 2010.

  
\_\_\_\_\_  
Stephen J. Moriarty

521538

## **EXHIBIT "A" APPELLEE'S STATEMENT OF THE CASE**

On April 23, 2009, the District Court of Oklahoma County entered its Order Appointing Stephen J. Moriarty Special Master for Heritage Estate Services, LLC ("Heritage"). Pursuant to the Order, the Special Master was given full authority to "operate and manage all assets" of Heritage. Further, Special Master was authorized to "collect any and all sums of money due or owing" to Heritage and to "institute" or "prosecute... actions or proceedings..."

Heritage was part of a Ponzi scheme that defrauded investors out of over \$12,000,000.00. Judgment was entered against Heritage on November 3, 2009 requiring Heritage to pay restitution to investors.

On January 12, 2010, the State of Oklahoma issued a check to Heritage Est Services in the amount of \$7,150.00 (the "Check"). The Check was sent by the State of Oklahoma to the Special Master.

On January 20, 2010, Jeff Burke ("Burke") filed a Motion requesting the District Court enter an Order directing that the Special Master deliver the Check to Burke. In his Motion, Burke claimed he had nothing to do with Heritage and the Check was his property.

On February 12, 2010, the Court held an evidentiary hearing on the Burke Motion. Evidence was presented to the Court to establish (1) Burke was the registered service agent for Defendant, (2) Burke's purported sole proprietorship, Heritage Est Services, maintained the same mailing address as Heritage, and (3) Burke has received payments from Defendant, Heritage totaling \$7,220.00. The Court found that the Check was property of Heritage and that Burke had no claim to the check. An Order was entered by the Court memorializing its ruling on February 19, 2010.