

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MAR - 4 2011

MICHAEL S. RICHIE
CLERK

OKLAHOMA DEPARTMENT OF SECURITIES)
ex rel. IRVING L. FAUGHT, Administrator, et al.,)

Plaintiffs/Appellees,)

vs.)

MARVIN LEE WILCOX and PAMELA)
JEAN WILCOX,)

Defendants/Appellants.)

)Supreme Court No. 109111
)District Ct. Case No. CJ-2005 3796

MOTION TO AMEND RECORD ON APPEAL

Appellees, Douglas L. Jackson, in his capacity as court-appointed Receiver for Marsha Schubert, Schubert and Associates, and the creditors and claimants of Marsha Schubert and Schubert and Associates, and the Oklahoma Department of Securities, *ex rel.* Irving L. Faught, Administrator, pursuant to Okla.Sup.Ct.R.1.32(b), respectfully move this Court for an order amending the Record on Appeal to incorporate three additional documents. In support of this motion, Appellees show the following:

1. On January 20, 2011, the Appellants filed their Record on Appeal (Record) and Appellees supplemented the Record on February 7, 2011.
2. On February 7, 2011, Appellees filed a Motion to Dismiss this matter.
3. The Appellants filed their response on February 22, 2011. Appellants argued that the first motion for summary judgment (First Summary Motion) filed against them on October 24, 2006, did not allege that Appellants were not innocent investors, an issue that became particularly relevant as a result of this Court's decision in *Blair. Oklahoma Dept. of Sec. ex rel. Faught v. Blair*, 2010 OK 16, ¶¶2-4, 231 P.3d 645, as corrected (Apr. 6, 2010), reh'g denied (Apr. 12, 2010).

4. In the First Summary Motion, facts were presented to establish that the Appellants engaged in wrongful conduct that perpetuated the Ponzi scheme. Appellants' response filed on November 13, 2006, admitted these facts (Response).

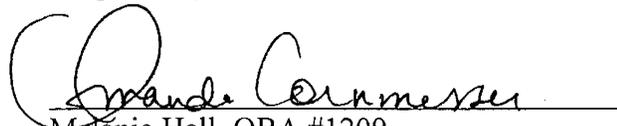
5. In Appellants' petition of error, the Appellants did not discuss the First Summary Order or Response.

6. The First Summary Motion, the Response and the resulting Judgment entered on February 5, 2007, are relevant to the issue raised by the Appellants in their response to the Appellees' Motion to Dismiss and are a necessary part of the Record.

7. Appellees have not delayed in filing this motion in that this issue was first raised in the Appellants' response to the Appellees' Motion to Dismiss, filed on February 22, 2011.

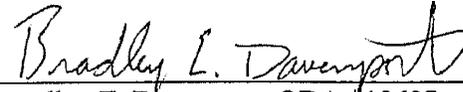
WHEREFORE, Appellees request this Court grant their Motion to Amend the Record on Appeal to add the Appellees' First Motion for Summary Judgment, the Response thereto, and the resulting judgment.

Respectfully submitted,



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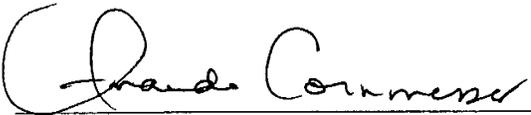
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CERTIFICATE OF MAILING TO ALL PARTIES

I certify that a true and correct copy of Appellees' *Motion to Amend Record* was mailed this 4~~th~~ day of March, 2011, to:

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by depositing it in the U.S. Mails, postage pre-paid.


Grand Cornwell