

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)

vs.)

Case No. CJ-2006-3311
Honorable Patricia G. Parrish

FARMERS & MERCHANTS BANK,)
an Oklahoma banking entity;)
FARMERS & MERCHANTS BANCSHARES,)
INC., an Oklahoma corporation;)
JOHN V. ANDERSON, Individually, as an officer)
and director of Farmers & Merchants Bank, and)
as a shareholder of Farmers & Merchants)
Bancshares, Inc.; and JOHN TOM ANDERSON,)
Individually, as an officer and director of)
Farmers & Merchants Bank, and as a shareholder)
of Farmers & Merchants Bancshares, Inc.,)
)
Defendants.)

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

NOV 13 2006

PATRICIA PRESLEY, COURT CLERK
by _____ DEPUTY

ANSWER

COME NOW Defendants Farmers & Merchants Bank (a state chartered Oklahoma banking entity), Farmers & Merchants Bancshares, Inc., John V. Anderson (individually and as an officer and director of Farmers & Merchants Bank), and John Tom Anderson (individually and as an officer and director of Farmers & Merchants Bank)(collectively referred to as "Defendants"), and answer Plaintiff's Petition. Except as specifically admitted below, Defendants deny each and every allegation of the Petition and demand strict proof thereof.

DEFENDANTS

1. Defendants admit that Farmers & Merchants Bank is a state chartered bank located in Crescent, Oklahoma. Farmers & Merchants Bank also has a bank located in Guthrie, Oklahoma. Defendants further admit that Farmers & Merchants Bank has a contractual relationship with Investment Centers of America, Inc., which has offices at Farmers & Merchant Bank's Crescent and Guthrie banking locations. Don Spicer works as an employee of Investment Centers of America and Farmers & Merchants Bank. To the extent that the allegations in paragraph 1 of the Petition are inconsistent with these admissions, they are denied.

2. Defendants deny the allegations in paragraph 2 of the Petition. Farmers & Merchants Bancshares is the holding company for F&M Bank, N.A.

3. Defendants admit the allegations in paragraph 3 of the Petition.

4. Defendants admit the allegations in paragraph 4 of the Petition.

5. Defendants admit the allegations in paragraph 5 of the Petition.

OVERVIEW

6. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Petition.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Petition.

8. Defendants admit that Marsha Schubert was an authorized signer on account number 34-7477 and account number 35-9424. To the extent that the allegations in paragraph 8 of the Petition are inconsistent with these admissions, they are denied.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Petition.

10. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Petition. Defendants specifically deny that it knew and, in the exercise of reasonable care could not have known, of any securities fraud scheme perpetrated by Marsha Schubert. Defendants further deny that it materially aided or participated in any securities fraud scheme of Marsha Schubert.

11. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Petition. Defendants specifically deny that it knew and, in the exercise of reasonable care could not have known, of any securities fraud scheme perpetrated by Marsha Schubert. Defendants further deny that it materially aided or participated in any securities fraud scheme of Marsha Schubert.

12. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Petition.

The Securities Fraud

13. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Petition.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Petition.

15. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Petition.

Defendants' Assistance in Securities Fraud

16. Defendants deny the allegations in paragraph 16 of the Petition.

17. Paragraph 17 of the Petition states no claim against Defendants and therefore does not require a response from Defendants. To the extent that paragraph 17 states a claim against Defendants, it is denied.

18. Defendants deny the allegations in paragraph 18 of the Petition.

19. Defendants deny the allegations in paragraph 19 of the Petition.

JURISDICTION AND VENUE

20. Defendants deny the allegations in paragraph 20 of the Petition and adopt and incorporate, as if fully set forth herein, the arguments and authorities asserted in its previously filed Motion to Dismiss.

21. Defendants deny the allegations in paragraph 21 of the Petition.

Non-Defendants Associated with DEFENDANTS Bank

22. Defendants admit the allegations in the first and second sentences of paragraph 22 of the Petition. Defendants further admit that Ed Stanton was Farmers & Merchants Bank's compliance officer, beginning January 12, 1996, and was designated as the Bank Secrecy Act officer in January 1999. Defendants admit that Ed Stanton resigned his position at Farmers & Merchants Bank, effective March 31, 2004. To the extent that the allegations in paragraph 22 of the Petition are inconsistent with these admissions, they are denied.

23. Defendants admit the allegations in the first, second, and third sentences of paragraph 23 of the Petition. Defendants deny that Chad Johnson was the assigned loan officer for Marsha Schubert.

24. Defendants admit the allegations in the first and second sentences of paragraph 24 of the Petition. Defendants state that Justin Tarrant advised Farmers & Merchants Bank

in January 2004 that he was resigning, effective February 15, 2004. To the extent that the allegations in paragraph 24 are inconsistent with these admissions and statements, they are denied.

25. Defendants admit the allegations in paragraph 25 of the Petition, with the qualification that Beth Armer is employed by Farmers & Merchants Bank as a part-time teller.

26. Defendants admit that, beginning in January 2002, the loan committee at Farmers & Merchants Bank was comprised of John V. Anderson, John Tom Anderson, Ed Stanton, Justin Tarrant, and Chad Johnson. Defendants further admit that John V. Anderson, John Tom Anderson, and Chad Johnson remained on the loan committee after the resignations of Ed Stanton and Justin Tarrant in 2004. To the extent that the allegations in paragraph 26 are inconsistent with these admissions, they are denied.

27. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 of the Petition.

28. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the Petition.

29. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 of the Petition.

30. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the Petition.

31. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the Petition.

32. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Petition.

FACTUAL ALLEGATIONS

33. In response to paragraph 33 of the Petition, Defendants incorporate and reallege their prior responses to paragraphs 1 through 32 of the Petition.

History of Schubert F&M Account

34. To the extent that the allegations contained in paragraph 34 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

35. To the extent that the allegations contained in paragraph 35 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

36. To the extent that the allegations contained in paragraph 36 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

37. To the extent that the allegations contained in paragraph 37 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

38. To the extent that the allegations contained in paragraph 38 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

39. To the extent that the allegations contained in paragraph 39 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

The "Ponzi" Scheme

40. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 of the Petition.

41. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the Petition.

The Beginning of the "Ponzi" Scheme

42. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Petition.

43. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 of the Petition.

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 of the Petition.

45. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Petition.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the Petition.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47 of the Petition.

48. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 of the Petition.

49. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 of the Petition.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 of the Petition.

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 of the Petition.

The Continuation of the "Ponzi" Scheme

52. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the Petition.

53. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the Petition.

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the Petition.

55. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 of the Petition.

56. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Petition.

57. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Petition.

58. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58 of the Petition.

59. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Petition. Moreover, to the extent that

the allegations contained in paragraph 59 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

60. To the extent that the allegations contained in paragraph 60 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

61. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Petition. Moreover, to the extent that the allegations contained in paragraph 61 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

62. To the extent that the allegations contained in paragraph 62 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

63. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Petition.

64. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 of the Petition.

65. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 of the Petition.

The Check Exchange Scheme

66. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 of the Petition.

67. Defendants admit that Robert Mathews opened an account at Farmers & Merchants Bank on November 10, 2003. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 67 of the Petition.

68. Defendants admit that Farmers & Merchants Bank has made secured loans to Robert Mathews. To the extent that the allegations in paragraph 68 are inconsistent with this admission, they are denied.

69. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69 of the Petition.

70. Defendants admit that Marvin Wilcox opened an account at Farmers & Merchants Bank on November 10, 2003. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 70 of the Petition.

71. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 71 of the Petition.

72. Defendants admit that Marvin Wilcox opened an account at Farmers & Merchants Bank on November 12, 2003. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 72 of the Petition.

73. Defendants deny the allegations in paragraph 73 of the Petition.

Bob Mathews

74. To the extent that the allegations contained in paragraph 74 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

75. To the extent that the allegations contained in paragraph 75 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

76. To the extent that the allegations contained in paragraph 76 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

77. To the extent that the allegations contained in paragraph 77 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

78. To the extent that the allegations contained in paragraph 78 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

79. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 of the Petition.

Marvin Wilcox

80. To the extent that the allegations contained in paragraph 80 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

81. To the extent that the allegations contained in paragraph 81 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

82. To the extent that the allegations contained in paragraph 82 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

83. To the extent that the allegations contained in paragraph 83 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

84. To the extent that the allegations contained in paragraph 84 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

85. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 85 of the Petition.

Lance Berry

86. To the extent that the allegations contained in paragraph 86 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

87. To the extent that the allegations contained in paragraph 87 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

88. To the extent that the allegations contained in paragraph 88 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

89. To the extent that the allegations contained in paragraph 89 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

90. To the extent that the allegations contained in paragraph 90 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

91. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 91 of the Petition.

F&M Bank's Conduct

92. Defendants deny the allegations in paragraph 92 of the Petition.

93. Defendants admit that Farmers & Merchants Bank's standard procedure was for the Loan Committee to meet each business and review the bank's business from the previous banking day. This review includes new requests for loans, renewed loans, extensions or deferrals of loans, overdrafts, and "large items." During the relevant time period, it did not include a review of accounts with uncollected balances. To the extent that the allegations of paragraph 93 are inconsistent with these admissions, they are denied.

94. Defendants define "large item" as any deposit or check in an amount greater than \$2,500. To the extent that the allegations of paragraph 94 are inconsistent with this statement, they are denied.

95. Defendants admit that all outgoing wire transfers require the prior approval of a loan officer, up to the loan officer's specified limit. To the extent that the allegations of paragraph 95 are inconsistent with this admission, they are denied.

96. Defendants deny the allegations in paragraph 96 of the Petition.

F&M Bank's Knowledge and Assistance

97. Defendants deny the allegations in paragraph 97 of the Petition.

98. Defendants deny the allegations in paragraph 98 of the Petition.

A. Volume of Activity

99. To the extent that the allegations contained in paragraph 99 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

100. To the extent that the allegations contained in paragraph 100 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

101. To the extent that the allegations contained in paragraph 101 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

102. To the extent that the allegations contained in paragraph 102 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

103. To the extent that the allegations contained in paragraph 103 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

104. To the extent that the allegations contained in paragraph 104 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

105. To the extent that the allegations contained in paragraph 105 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

106. To the extent that the allegations contained in paragraph 106 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

107. Defendants deny the allegations in paragraph 107 of the Petition.

B. Uncollected Funds

108. Defendants deny the allegations in paragraph 108 of the Petition.

109. Defendants deny the allegations in paragraph 109 of the Petition.

110. Defendants admit that Marsha Schubert's uncollected balances were discussed by members of the loan committee, beginning in the fall of 2002. To the extent that the allegations in paragraph 110 are inconsistent with this admission, they are denied.

111. Defendants deny the allegations in paragraph 111 of the Petition.

112. Defendants deny the allegations in paragraph 112 of the Petition.

113. Defendants deny the allegations in paragraph 113 of the Petition.

114. Defendants deny the allegations in paragraph 114 of the Petition.

115. Defendants admit that, at some point, it changed the service charge method for account number 34-7477. To the extent that the allegations of paragraph 115 are inconsistent with this admission, they are denied.

116. To the extent that the allegations contained in paragraph 116 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

117. Defendants deny the allegations in paragraph 117 of the Petition.

C. Management's Knowledge of Check Exchange Scheme

118. Defendants deny the allegations in paragraph 118 of the Petition.

Activity Between F&M and NB&C Accounts

119. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 119 of the Petition.

120. To the extent that the allegations contained in paragraph 120 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

121. Defendants admit that John Tom Anderson spoke with Dennis Themer during the relevant period. However, Defendants deny the remaining allegations in paragraph 121 of the Petition.

122. Defendants admit that John Tom Anderson spoke on one occasion with Jim Talkington. However, Defendants deny the remaining allegations in paragraph 122 of the Petition.

123. Defendants deny the allegations in paragraph 123 of the Petition.

Activity Between F&M Bank Accounts

124. Defendants deny the allegations in paragraph 124 of the Petition.

125. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 125 of the Petition.

126. Defendants deny the allegations in paragraph 126 of the Petition.
127. Defendants deny the allegations in paragraph 127 of the Petition.
128. Defendants deny the allegations in paragraph 128 of the Petition.
129. Defendants deny the allegations in paragraph 129 of the Petition.
130. Defendants deny the allegations in paragraph 130 of the Petition.
131. Defendants deny the allegations in paragraph 131 of the Petition.
132. Defendants deny the allegations in paragraph 132 of the Petition.
133. Defendants deny the allegations in paragraph 133 of the Petition.
134. Defendants deny the allegations in paragraph 134 of the Petition.
135. Defendants deny the allegations in paragraph 135 of the Petition.
136. Defendants deny the allegations in paragraph 136 of the Petition.
137. Defendants deny the allegations in paragraph 137 of the Petition.
138. To the extent that the allegations contained in paragraph 138 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.
139. Defendants deny the allegations in paragraph 139 of the Petition.

D. Use of Investment Proceeds

140. Defendants deny the allegations in paragraph 140 of the Petition.
141. Defendants deny the allegations in paragraph 141 of the Petition.
142. To the extent that the allegations contained in paragraph 142 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

143. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143 of the Petition. Additionally, to the extent that the allegations contained in paragraph 143 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

144. Defendants deny the allegations in paragraph 144 of the Petition.

145. Defendants deny the allegations in paragraph 145 of the Petition.

146. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 146 of the Petition.

147. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 147 of the Petition.

148. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 148 of the Petition.

149. Defendants deny the allegations in paragraph 149 of the Petition.

150. Defendants deny the allegations in paragraph 150 of the Petition.

151. Defendants deny the allegations in paragraph 151 of the Petition.

152. Defendants deny the allegations in paragraph 152 of the Petition.

E. Unauthorized Activity

153. Defendants admit the allegations in paragraph 153 of the Petition.

154. Defendants deny the allegations in paragraph 154 of the Petition.

155. Defendants deny the allegations in paragraph 155 of the Petition.

156. Defendants deny the allegations in paragraph 156 of the Petition.

157. Defendants deny the allegations in paragraph 157 of the Petition. Additionally, to the extent that the allegations contained in paragraph 157 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

158. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 158 of the Petition. Additionally, to the extent that the allegations contained in paragraph 158 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

159. Defendants deny the allegations in paragraph 159 of the Petition.

160. Defendants deny the allegations in paragraph 160 of the Petition.

161. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 161 of the Petition.

162. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 162 of the Petition.

163. Defendants deny the allegations in paragraph 163 of the Petition.

F. Lending Activity

164. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 164 of the Petition. Additionally, to the extent that the allegations contained in paragraph 164 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

165. Defendants deny the allegations in paragraph 165 of the Petition.

166. Defendants deny the allegations in paragraph 166 of the Petition.

167. Defendants admit that when a borrower purchases cattle under private treaty, typically no proof of sale is provided to the purchaser by the seller. To the extent that the allegations of paragraph 167 are inconsistent with this admission, they are denied.

168. Defendants deny the allegations in paragraph 168 of the Petition.

169. Defendants deny the allegations in paragraph 169 of the Petition.

170. Defendants deny the allegations in paragraph 170 of the Petition.

G. Other Commingling of Funds

171. Defendants deny the allegations in paragraph 171 of the Petition.

172. To the extent that the allegations contained in paragraph 172 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

173. To the extent that the allegations contained in paragraph 173 of the Petition interpret the bank records of Marsha Schubert, the documents speak for themselves and any allegations contrary therewith are denied.

174. Defendants deny the allegations in paragraph 174 of the Petition.

175. Defendants deny the allegations in paragraph 175 of the Petition.

176. Defendants deny the allegations in paragraph 176 of the Petition.

177. Defendants deny the allegations in paragraph 177 of the Petition.

H. Monitoring of Brokerage Activities

178. Defendants admit the allegations in paragraph 178 of the Petition.

179. Defendants admit the allegations in paragraph 179 of the Petition.

180. Defendants admit the allegations in paragraph 180 of the Petition.

181. Defendants admit the allegations in paragraph 181 of the Petition.

182. Defendants admit the allegations in paragraph 182 of the Petition.

183. To the extent that the allegations contained in paragraph 183 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied.

184. To the extent that the allegations contained in paragraph 184 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied. Defendants specifically deny the second sentence in paragraph 184 of the Petition.

185. To the extent that the allegations contained in paragraph 185 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied.

186. Defendants deny the allegations in paragraph 186 of the Petition.

187. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 187 of the Petition.

188. Defendants deny the allegations in paragraph 188 of the Petition.

I. Conflicts of Interest

189. To the extent that the allegations contained in paragraph 189 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied.

190. To the extent that the allegations contained in paragraph 190 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied.

191. Defendants admit that Ed Stanton was designated as Farmers & Merchants Bank's compliance officer in January 1996. Stanton oversaw compliance with all policies of the bank, not just the bribery policy. To the extent the allegations in paragraph 91 are inconsistent with these admissions, they are denied.

192. Defendants deny the allegations in paragraph 192 of the Petition.

Ed Stanton

193. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 193 of the Petition.

194. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 194 of the Petition.

195. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 195 of the Petition.

196. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 196 of the Petition.

197. Defendants deny the allegations in paragraph 197 of the Petition.

198. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 198 of the Petition.

199. Defendants deny the allegations in paragraph 199 of the Petition.

200. Defendants deny the allegations in paragraph 200 of the Petition.

Justin Tarrant

201. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 201 of the Petition.

202. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 202 of the Petition.

203. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 203 of the Petition.

204. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 204 of the Petition.

205. To the extent that the allegations contained in paragraph 205 of the Petition interpret written documents, the documents speak for themselves and any allegations contrary therewith are denied.

206. Defendants deny the allegations in paragraph 206 of the Petition.

207. Defendants deny the allegations in paragraph 207 of the Petition.

Chad Johnson

208. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 208 of the Petition.

209. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 209 of the Petition.

210. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 210 of the Petition.

211. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 211 of the Petition.

212. Defendants deny the allegations in paragraph 212 of the Petition.

213. Defendants deny the allegations in paragraph 213 of the Petition.

J. Bank Consultant's Opinion

214. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 214 of the Petition.

215. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 215 of the Petition.

K. Assistance to Bank Customers

216. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 216 of the Petition.

217. Defendants deny the allegations in paragraph 217 of the Petition.

218. To the extent that the allegations contained in paragraph 218 of the Petition interpret the bank records of Marsha Schubert and/or Richard Hedrick, the documents speak for themselves and any allegations contrary therewith are denied.

219. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 219 of the Petition.

220. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 220 of the Petition.

221. Defendants deny the allegations in paragraph 221 of the Petition.

CAUSE OF ACTION

AIDING AND ABETTING SECURITIES FRAUD

222. Defendants deny all unnumbered allegations contained under the subheading "AIDING AND ABETTING SECURITIES FRAUD," and demands strict proof thereof.

DEFENSES/AFFIRMATIVE DEFENSES

1. The Petition, in whole or in part, fails to state a claim upon which relief can be granted. Defendants adopt and incorporate, as if fully set forth herein, its Motion to Dismiss previously filed seeking dismissal of Plaintiff's claims under 12 O.S. 2012.
2. The Petition fails to join necessary and/or indispensable parties in whose absence complete relief cannot be accorded among those already parties. Therefore, this action must be dismissed, or alternatively, the action should be stayed pending other appropriate relief by the Court.
3. Plaintiff lacks standing to bring this lawsuit.
4. Defendants cannot be held jointly and severally liable for the acts or omissions of Marsha Schubert.
4. Plaintiff's claims are barred in whole or in part by the actions or omissions of Marsha Schubert's employers or entities on behalf of which Marsha Schubert acted as an agent or contractor.
5. Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations.
6. Plaintiff's claims are barred in whole or in part by the doctrine of respondeat superior.
7. Plaintiff's claims are barred in whole or in part by its failure to meet and/or comply with all conditions precedent under Oklahoma law prior to maintaining an action in the district court.

8. Plaintiff's claims are subject to all defenses that Defendants may assert against those who purportedly invested with Marsha Schubert, to include, but not limited to, assumption of risk, comparative fault, ratification, unclean hands, and lack of due diligence in monitoring, managing, and handling their investments.
9. Plaintiff's claims are barred in whole or in part by failure of consideration.
10. Plaintiff's claims are barred in whole or in part by the doctrine of laches.
11. Plaintiff's claims are barred in whole or in part by the doctrine of waiver.
12. Plaintiff's claims are barred in whole or in part by the doctrine of payment.
13. Plaintiff's claims are barred in whole or in part by the doctrine of accord and satisfaction.
14. Plaintiff's claims are barred in whole or in part by the doctrine of release.
15. Plaintiff's claims, including, but not limited to, its request for restitution, are barred in whole or in part by the doctrine of estoppel.
16. Plaintiff's claims are barred in whole or in part by the doctrine of res judicata.
17. Plaintiff's claims are barred in whole or in part by the doctrine of arbitration and award.
18. Plaintiff's claims are barred in whole or in part by the doctrine of misjoinder.
19. Plaintiff's claims are barred in whole or in part by the negligence of third parties over whom Defendants had no control and for whom Defendants are not legally responsible in that the failure of said third parties to exercise ordinary care proximately caused in whole or in part the relief requested by Plaintiff.

20. Plaintiff's claims are barred in whole or in part by the comparative negligence or fault of third parties.

21. Plaintiff's claims are barred in whole or in part by failure to mitigate damages.

22. In the unlikely event that Defendants are held liable in this case, which is not admitted and is expressly denied, Defendants assert its rights of contribution, comparative fault, indemnity, and/or credits or offsets as permitted by applicable law.

23. Plaintiff's claims are barred in whole or in part by the rule against double recovery.

24. Defendants are entitled to a setoff or credit for any amounts received by Plaintiff and/or the court-appointed receiver from any source whatsoever with respect to any recovery arising out of claims and/or allegations asserted herein against any other person or party. Such would include but not be limited to any settlement and/or compromise and/or any damages paid as a result of bankruptcy, arbitration, and/or other litigation.

25. Defendants deny that it materially aided, or is about to materially aid an act, practice, or course of business constituting a violation of the Oklahoma Securities Act, or a rule adopted or order issued under the Oklahoma Securities Act or constituting a dishonest or unethical practice.

26. Defendants did not materially aid and/or participate in any securities violation committed by Marsha Schubert. Defendants did not participate in the solicitation, negotiation, and/or disposition stages of any securities transaction between Marsha Schubert and any alleged investor, which led to his/her investment with Marsha Schubert.

Further, Defendants did not know and, in the exercise of reasonable care could not have known, of the purported securities violations committed by Marsha Schubert.

27. Defendants deny any misconduct in connection with the offer, purchase, or sale of securities. Defendants deny that it made any untrue statements of material fact or omitted to state a material fact necessary in order to make a statement made not misleading. Defendants further deny that it engaged in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

28. Activities that occur after the purchase of a security cannot form the basis for aiding and abetting liability.

29. Regular and routine banking practices cannot form the basis of aiding and abetting liability.

30. The interests sold by Marsha Schubert do not meet the definition of a security under Oklahoma law. To the extent the Court finds that the interests were securities, they were exempt from registration.

31. Plaintiff cannot demonstrate that Defendants acted with the requisite scienter.

32. Defendants reserve the right to amend and/or assert further defenses and affirmative defenses into the matters alleged in the Petition.

PRAYER FOR RELIEF

WHEREFORE, having fully answered, Defendants pray for judgment in its favor and against Plaintiff, and for such further relief as the Court may deem just and equitable.



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**ATTORNEYS FOR DEFENDANTS
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& MERCHANTS BANCSHARES, INC., JOHN
V. ANDERSON and JOHN TOM ANDERSON**

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of November, 2006, a true and correct copy of the above and foregoing instrument was mailed, via U.S. First Class Mail, postage prepaid, to the following counsel of record:

Melanie Hall, Esq.
Amanda Cornmesser, Esq.
Gerri Stuckey, Esq.
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November 14, 2006

Melanie Hall, Esq.
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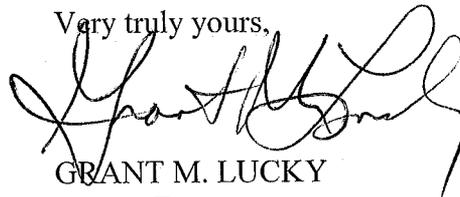
Re: *Oklahoma Department of Securities ex rel., Irving L. Faught, Administrator v. Farmers & Merchants Bank, et al.*
Case No. CJ-2006-3311
In the District Court of Oklahoma County, State of Oklahoma

Dear Melanie:

Please find enclosed the defendants' Answer in the above-referenced matter.

Should you have any questions, please feel free to contact me at your convenience.

Very truly yours,



GRANT M. LUCKY
For the Firm

GML/amm

Enclosure as Noted

cc: Amanda Cornmesser, Esq. (w/o encl.)