

Judge Furush Dec. 19th @ 4:00am

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES )  
ex rel. Irving L. Faught, Administrator, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
FARMERS & MERCHANTS BANK, et al. )  
 )  
Defendants, )  
 )  
and )  
 )  
ROBERT LYNN POURCHOT, Trustee of the )  
Robert Lynn Pourchot Trust, et al., )  
 )  
Intervenors. )

Case No. CJ-2006-3311

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

NOV 20 2008

PATRICIA PRESLEY, COURT CLERK

by \_\_\_\_\_  
DEPUTY

**DEFENDANTS' MOTION TO COMPEL AGAINST INTERVENORS**

COME NOW Defendants, Farmers & Merchants Bank, Farmers & Merchants Bancshares, Inc., John V. Anderson, and John Tom Anderson (collectively, "Defendants"), pursuant to 12 O.S. § 3237, and respectfully moves the Court to compel the Intervenors to provide answers to Defendants' First Set of Interrogatories and to produce certain documents requested by Defendants in their First Requests for Production of Documents. Defendants have, in good faith, attempted to confer with Intervenors' counsel in an effort to obtain the requested discovery without court action; however, such attempts have been unsuccessful. In support of this Motion, Defendants would show as follows:

61.

## FACTS

1. On January 17, 2008 Defendants served Intervenor with Defendants' First Set of Interrogatories and First Request for Production of Documents. *See* Exhibits "1" and "2" attached hereto.

2. On February 18, 2008, counsel for Intervenor requested an extension of thirty (30) days to respond to Defendants' discovery requests. Intervenor served their unverified Answers to Defendants' First Set of Interrogatories and their Responses to Defendants' First Request for Production of Documents on March 19, 2008. *See* Exhibits "3" and "4" attached hereto.

3. Intervenor objected and refused to answer nearly every single discovery request propounded by Defendants. The objections made by Intervenor state or concern matters of which Intervenor were aware prior to Intervenor's request for an additional 30-day extension. Intervenor did not require an extension of time to make these objections, and Defendants would not have agreed to Intervenor's requested extension if Defendants had known that Intervenor were merely going to use the 30-day delay to then file blanket objections and unverified answers to all of Defendants' discovery requests.

4. Due to a variety of problems encountered by Defendants relating to discovery matters with both the Intervenor and Plaintiff, this Court conducted a hearing on August 29, 2008. As a result of the hearing, the Court made various rulings that directly relate to the relevancy and scope of discoverable information requested from Intervenor, and which bear upon the matters raised in the instant motion.

5. With respect to Intervenor's answers to Defendants' First Set of Interrogatories, Defendants seek to compel full and complete answers to Interrogatory Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 17.

6. With respect to Intervenor's Responses to Defendants' First Request for Production of Documents ("RFP"), Defendants seek to compel the production of documents requested by Defendants in RFP Nos. 1, 2, 3, 7, 12, 18, 24, 25, and 31.

### **ARGUMENT AND AUTHORITIES**

#### **I. INTERVENORS' ANSWERS TO THE SUBJECT INTERROGATORIES ARE DEFICIENT**

##### **A. Intervenor's Have Asserted Meritless Objections**

Rather than providing full, complete, and verified answers to interrogatories that are critical to Defendants' defenses, Intervenor's served blanket objections to the interrogatories, which included such objections as (1) the interrogatories were "irrelevant," and/or "vague, ambiguous, and overly broad," and/or (2) the interrogatories were "unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence." However, these objections are meritless.

A review of Defendants' Interrogatories that are the subject of this Motion demonstrates that Defendants have requested information specifically related to the subject matter involved in the pending action. *See* 12 O.S. § 3226(B)(1). Moreover, the Interrogatories are clear and express, and obviously request relevant information likely to lead to the discovery of admissible evidence. Intervenor's objections additionally provide no reason whatsoever as to why answering interrogatories would be "unduly burdensome." As such, Defendants submit that Intervenor's objections are not consistent with the Oklahoma Discovery Code and have been

interposed for the purpose of avoiding the duty to provide full and complete answers to Defendants' Interrogatories.

**B. Intervenors' Improper Use Of The Option To Produce Business Records**

After asserting the above objections, Intervenors state in response to certain interrogatories that the "transcripts of arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds." See Exhibit "3," Answers to Interrogatory Nos. 2, 3, 4, 5, 7, 8, 10, 12, 13, and 15. Intervenors also direct Defendants to unidentified documents in the possession of Intervenors as well as the BKD report in order to further avoid providing verified answers to Defendants' interrogatories. However, as a matter of law, these answers are deficient as Intervenors have failed to comply with 12 O.S. § 3237(C) and are merely avoiding the duty to provide relevant and discoverable information to Defendants.

Federal courts have consistently held that such answers are insufficient under the federal counterpart to § 3237(C).<sup>1</sup> For example, in *S.E.C. v. Elfindegan*, 206 F.R.D. 574 (M.D.N.C. 2002), the Defendant served the S.E.C with interrogatories that "were a mixture of contention interrogatories and requests for statement of facts." *Id.* at 577. In response, the S.E.C. directed defendants to review various pleadings "and supporting documents, declarations, affidavits, and deposition excerpts." *Id.* at 576. According to the S.E.C., such an answer was authorized by Fed.R.Civ.P. 33(d), which speaks to a situation in which the answer to an interrogatory may be

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<sup>1</sup> See Fed.R.Civ.P. 33(d). Since 12 O.S. § 3237(C) is adopted from its federal counterpart, this Court may look to federal case law to aid its interpretation and application. *Heffron v. District Court Oklahoma County*, 2003 OK 75, ¶¶ 13 & 14, 77 P.3d 1069, 1076 (when a statute is adopted from the Federal Rules of Civil Procedure, court may look to relevant federal case law to assist them in interpreting the pertinent state provision).

derived or ascertained from the business records of the party upon whom the interrogatory has been served. In such a situation, it is a sufficient answer to the interrogatory to specify the business records from which the answer may be derived or ascertained.

The court originally noted that the documents relied upon by the S.E.C. – pleadings, depositions, exhibits, and affidavits – were not even Rule 33(d) business records. *See also M&L Business Machine Company, Inc. v. Kloepfer*, 184 B.R. 366, 369 (D. Colo. 1995) (“Rule 33(d) targets situations in which the interrogatory would ‘require a party to engage in a burdensome or expensive search into *his own business records* in order to give an answer’” (citing the Advisory Committee Notes to Fed.R.Civ.P. 34); *Starlight International, Inc. v. Herlihy*, 190 F.R.D. 587 (D. Kan. 1999) (noting that only business records may be used in lieu of interrogatory answers; thus, one cannot produce deposition transcripts instead of answering an interrogatory).

The court also found that, in order to properly rely upon Fed.R.Civ.P. 33(d), the S.E.C. was required to “show that the named documents contain all of the information requested by the interrogatories.” *Id.* (citing *Oleson v. Kmart Corp.*, 175 F.R.D. 560, 564 (D. Kan. 1997)). In that respect, the court stated that:

Critical to this inquiry is that the producing party have adequately and precisely specified for each interrogatory, the actual documents where information will be found. Document dumps or vague references to documents do not suffice.

*Id.* (citations omitted). Because the S.E.C. failed to identify any specific documents in their answer and because they failed to establish that the documents, in fact, contained all of the information requested by the interrogatories, the Court granted defendants’ motion to compel and ordered that the S.E.C. provide sufficient answers to the specific interrogatories.

The court further stated that Fed.R.Civ.P. 33(d) does not even apply when the interrogatories request a party’s contentions or statement of facts which a party relies in support

of their cause of action. “Rule 33(d) was intended to be used where an interrogatory makes broad inquiries and numerous documents must be consulted to ascertain facts, such as identities, quantities, data, action, tests, results, etc.” *Id.* at 577 (citation omitted). Accordingly, the S.E.C.’s reliance upon Rule 33(d) to answer contention interrogatories and requests for statements of fact was misplaced.

Similarly, *Continental Illinois National Bank & Trust Company of Chicago v. Caton*, 136 F.R.D. 682 (D. Kan. 1991) is another case involving a party’s misguided use of Rule 33. In that case, the defendant served interrogatories that required plaintiff to “state specific facts supporting its various contentions and allegations in the complaint . . .” *Id.* at 683. In response, plaintiff’s answers referred the defendant to deposition testimony of various witnesses as well as the allegations contained in the complaint.

The court first noted that it is a bedrock principle of discovery that a defendant “is entitled to know the factual basis of plaintiff’s allegations and the documents which the plaintiff intends to use to support those allegations.” *Id.* at 684 (citations omitted). For this reason, “an interrogatory may properly inquire into a party’s contentions in the case and the factual basis therefor.” *Id.* (citations omitted). In responding to such interrogatories, a party may not use Rule 33 as a procedural device for avoiding the duty to give information.

Further, the court recognized that, by filing a complaint, the plaintiff affirms that he or she has read the pleading and that, to the best of the signer’s knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument, etc. Accordingly, the court noted that once allegations are lodged against a defendant:

[H]e must be allowed to require the accusing party to set forth, with particularity, what he is accused of doing, not doing, or both.

That is one of the purposes of discovery. . . . Thus, interrogatories [designed] to discover the detail[ed] factual basis for a particular allegation or [claim], or to test whether there is any factual basis at all for a particular allegation or [claim], are entirely proper and appropriate. . . . The court believes [that a] defendant is entitled to that information before trial and that it is not unduly burdensome, oppressive or inappropriate to require plaintiff to finally be brought to quarter and state its position, as to each count, with specific particularity, and disclose the evidence upon which it is going to rely at trial rather than referring to a mass of deposition transcripts, records and documents from which a defendant is supposed to winnow and glean . . . the relevant from the non-relevant . . . the jewels from the junk, as it were.

*Id.* at 689. In response to such interrogatories, a plaintiff cannot use Rule 33 as a procedural device for avoiding the duty to give information. “Plaintiff’s argument that defendant can discern, from the general mass, exactly what plaintiff claims defendant did or did not do, or both, as well as plaintiff can, is almost absurd. Only plaintiff and its lawyers know what evidence, as opposed to all the information it has discovered, it intends to offer at trial and the relationship of that evidence to its theories of recovery and claims against [defendant].”

Here, Intervenors have steadfastly refused to provide critical information to Defendants regarding, among other things, the manner in which they allegedly materially participated and/or aided in the individual sales that give Marsha Schubert’s liability under the Oklahoma Securities Act. Rather, Intervenors direct Defendants to arbitration hearing transcripts and the BKD report, ***which are not even business records of Intervenors.*** As such, Intervenors have placed Defendants in a position where they cannot learn what they must defend against in court until such time as the Court orders Intervenors to provide a full and complete answers to the subject Interrogatories.

Such action is wholly inconsistent with the recognized purpose of discovery, which is to “promote the discovery of true facts and circumstances of the controversy, rather than to aid in

their concealment.” *Boswell v. Schultz*, 2007 OK 94, ¶ 14, 175 P.3d 390, 395 (citing *State ex rel. Remington Arms Co., Inc. v. Powers*, 1976 OK 103, ¶ 4, 552 P.2d 1150). The liberal discovery rules permit “parties to obtain the fullest possible knowledge of the issues and facts before trial . . . [in order to] to make a trial less a game of blind man’s bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent.” *State ex rel. Protective Health Services v. Billings Fairchild Center, Inc.*, 2007 OK CIV APP 24, ¶ 17, 158 P.3d 484, 489 (citations and internal quotations omitted). Intervenors’ answers to the subject Interrogatories clearly thwart that purpose and Defendants respectfully request that the Court order a full and complete answer to them.

## **II. INTERVENORS’ RESPONSES TO THE SUBJECT REQUESTS FOR PRODUCTION OF DOCUMENTS ARE DEFICIENT**

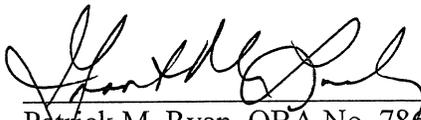
Similar to the Intervenors’ objections to Defendants interrogatories, Intervenors contend that the subject document requests are irrelevant, vague, ambiguous, overly broad, unduly burdensome, and/or not reasonably calculated to lead to the discovery of admissible evidence. Once again, though, these objections are spurious. A review of the subject document requests demonstrates that Defendants have requested documents specifically related to the subject matter of the pending lawsuit. The document requests are clear and express, and obviously request relevant information likely to lead to the discovery of admissible evidence. Intervenors provide no reason whatsoever as to why production of the requested documents would be “unduly burdensome.”

### **CONCLUSION**

Based upon the foregoing brief, Defendants respectfully request that the Court enter an order compelling Intervenors to answer and/or respond Defendants’ Discovery Requests; compelling Intervenors to pay Defendants’ attorney fees incurred in making this motion; and

granting Defendants such other and further relief as the Court deems just and proper.

Respectfully Submitted,



Patrick M. Ryan, OBA No. 7864

Daniel G. Webber, Jr., OBA No. 16332

Matthew C. Kane, OBA No. 19502

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

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>TH</sup> day of November 2008, 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

Amanda Cornmesser

Gerri Stuckey

Oklahoma Department of Securities

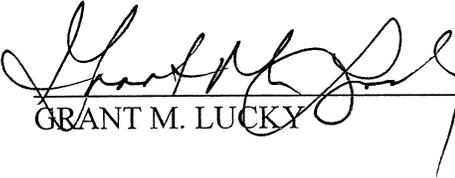
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GRANT M. LUCKY

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA**

OKLAHOMA DEPARTMENT OF SECURITIES )  
*ex rel.* Irving L. Faught, Administrator, )  
 )  
Plaintiff, )  
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vs. )  
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FARMERS & MERCHANTS BANK, et al. )  
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Defendants, )  
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and )  
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ROBERT LYNN POURCHOT, Trustee of the )  
Robert Lynn Pourchot Trust, et al., )  
 )  
Intervenors. )

Case No. CJ-2006-3311

**DEFENDANTS' FIRST SET OF INTERROGATORIES TO INTERVENORS**

Defendant Farmers & Merchants Bank (a state chartered Oklahoma banking entity), John V. Anderson (individually and as an officer and director of Farmers & Merchants Bank), and John and Tom Anderson (individually and as an officer and director of Farmers & Merchants Bank) (collectively referred to as "Defendants"), pursuant to 12 O.S. §3233, direct the following First Set of Interrogatories to Intervenors.

**DEFINITIONS AND TERMS USED HEREIN**

The following terms shall have the meanings set forth below:

1. The term "Intervenors" shall mean Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments, LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust; Richard Reynolds, Trustee of the Richard Reynolds Living Trust; Annenda Reynolds;



Steven B. Sanders; Vicki L. Sanders; and Crandall & Sanders, Inc. and any person, employee, agent, or representative acting on their behalf.

2. The terms "you" and "your" shall mean the respective Intervenors in this lawsuit and any person, employee, agent, or representative acting on their behalf.

3. "Document" or "writing" means any form of data compilation whether produced, reproduced, or stored on paper, cards, tapes, disks, belts, charts, films, computer storage devices, or any other medium and shall include, but not be limited to, any letter, note, electronic mail ("e-mail"), memorandum, article, book, published material, report, study, statement, speech, notebook, application, calendar, working paper, manual, brochure, analysis, telegram, transcript, summary, diary, agreement, contract, log, appointment book, graph, drawing, chart, financial statement, bank statement, bank check, deposit slip, receipt, invoice, bookkeeping entry, photograph, photostat, microfilm, x-ray film, sound recording, motion picture, videotape, or any other type of mechanical, electronic or magnetic impulse recording, and shall also include, but not be limited to, any draft or copy (with or without notes of changes thereon) of a writing or document in the possession, custody or control of the Intervenors or any officer, employee, consultant, agent, or counsel of or for Intervenors.

4. With respect to documents or writings, the word "identify" means that you are to state:

- (a) the form of the document or writing (*e.g.*, letter, memorandum, *etc.*);
- (b) the date of its preparation;
- (c) the author, recorder, or sender;
- (d) each addressee or recipient;
- (e) the subject matter;

- (f) the name and address of any persons presently having custody or control of the same or a true copy of the document;
- (g) whether you consider the document to be privileged;
- (h) whether the document is in your possession, custody or control, and if not, state what disposition was made of it, the date and reason for such disposition, the information you have as to its present location and its contents or substance if known.

5. "Communication" means and includes any written, oral, telephonic or other inquiry, representation, discussion, conversation, negotiation, agreement, understanding, meeting, letter, note, telegraph, facsimile, telex, computer transmission, advertisement or interview and any other communication, representation, or statement which is not fully contained in a document or writing.

6. With respect to a communication, the word "identify" means that you are to:

- (a) state whether such communication was in person, by telephone or otherwise;
- (b) state the date, place and persons present or involved;
- (c) give a summary of the communication or statement of each person participating;
- (d) identify each document within your possession, custody or control which reports, summarizes or otherwise in any way memorializes or refers to such communication or the subject matter of anything discussed or considered in such communication.

7. "Person" or "persons" shall be used to mean any natural persons or individuals, corporations, partnerships, firms, joint ventures, associations, or any other entities or ventures, including any successor in interest to such entity if liquidated or merged, and any governmental employees, agency, bureau, commissions, or governmental entity.

8. With respect to person or persons, the word "identify" means that you are to state the name and most recently known information regarding the place of residence, business address, employer and job title of each such person; and, if not a natural person, state in addition the nature of the entity described (*e.g.*, corporation, partnership, *etc.*).

9. "Regarding," "relating to" or "concerning" shall mean to consist of, refer to, pertain to, reflect, evidence or be in any way logically or factually connected with the matter discussed.

10. "Knowledge" includes first-hand information and information derived from any other source, including hearsay knowledge.

11. The terms "sale," "investment adviser," "agent," "broker-dealer," "security," and "investment adviser representative" are defined terms under the Oklahoma Securities Act and have those meanings ascribed to them therein, unless the context otherwise requires.

12. The term "Receiver" shall mean the court appointed receiver in the Logan County Suit, Case No. CJ-2004-256, *Oklahoma Department of Securities ex re. Irving L. Faught, Administrator v. Marsha Schubert, et al.*

13. Unless otherwise stated, the term "relevant time period" shall mean the time period covering the three (3) years prior to your first investment activity with Marsha Schubert through the date your Petition in Intervention was filed.

## INSTRUCTIONS

1. These interrogatories are directed toward all information known or available to Intervenor, through their officers, employees, agents, or attorneys, including information contained in the records and documents in its custody or control or available to it upon reasonable inquiry. Where interrogatories cannot be answered in full, they shall be answered as completely as possible, and incomplete answers shall be accompanied by a specification of the reasons for the incompleteness of the answer and of whatever knowledge, information or belief is possessed with respect to each unanswered or incompletely answered interrogatory.

2. These interrogatories shall be deemed continuing pursuant to 12 O.S. § 3226(E), so as to require amended answers if you obtain information on the basis of which you know that any response made was incorrect when made or, although correct when made, is no longer true. Otherwise, if supplemental answers are not provided, it will be assumed the answers originally given are accurate and complete.

3. As to every interrogatory which you fail to answer in whole or in part on the ground that the information sought involves a document or oral communication which you content to be privileged or otherwise protected from disclosure, state in detail:

- (a) the portion of the interrogatory to which the response is claimed to be privileged;
- (b) the identification of the document;
- (c) the general subject matter of the document or communication;
- (d) the author and all recipients of any document, and the persons involved in any oral communication;

- (e) the identity of any other persons having knowledge of the document or communication involved;
- (f) the nature of the privilege claimed; and
- (g) every fact on which you base the claim of privilege or that the information need not be disclosed.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify each person who supplied information utilized in preparing the answers and responses to each interrogatory and request for production, including in your answer their full name, current address, date of birth, and a description of their participation in helping prepare the answers and responses. As to any information furnished in answer to an interrogatory which is not within the personal knowledge of the person signing the answers, identify each person having personal knowledge of the information.

**INTERROGATORY NO. 2:** Provide a narrative description of the facts and circumstances surrounding how and when you first discovered, met, and/or contacted Marsha Schubert regarding using her to invest monies on your behalf. If you were referred to Marsha Schubert, please provide the name, address, and telephone number of the person who referred you to Marsha Schubert and the approximate date of the referral.

**INTERROGATORY NO. 3:** With respect to each Intervenor, and for the period of time identified by you in paragraph 7 of your Petition in Intervention (January 2000 through October 2004) relative to your investment in Schubert's purported investment program, please identify the following:

- (a) The date(s) that Marsha Schubert sold a security to you;
- (b) Facts evidencing a sale of a security, including the method of payment;

- (c) A description of the security;
- (d) Whether the sale was solicited or unsolicited. If the sale was solicited, identify the person(s) who solicited the sale;
- (e) A description of the material terms of the sale;
- (f) A description of each statement made by Marsha Schubert to you, including, but not limited to, the time, place, and content of each statement, alleged by you to have been in violation of 71 O.S. § 408(a)(2) and/or 71 O.S. § 1-509(C);
- (g) The material or principal facts upon which you rely as evidence of each Defendant's material participation and/or material aid in each sale of a security as described above;
- (h) Identify the documents evidencing the sale;
- (i) Identify the person(s) who witnessed each sale to you;
- (j) Identify whether you received any confirmation, monthly statement, periodic report, or any other document from any source which evidenced Schubert's purchase of securities through funds you provided to her.

**INTERROGATORY NO. 4:** Identify the material or principal facts upon which you rely as evidence that you "did not and could not with the exercise of reasonable diligence have known of the misconduct of Defendants . . . until the public release of the BKD Report by the Receiver on March 23, 2005," as alleged by you in paragraph 11 of your Petition in Intervention.

**INTERROGATORY NO. 5:** Identify the name of each investment advisor, broker-dealer, or other person or entity who has invested funds on your behalf. Please provide the dates you used each such person or entity.

**INTERROGATORY NO. 6:** Identify the name of each banking institution in which you deposited money during the time period you invested funds with or through Marsha Schubert.

**INTERROGATORY NO. 7:** Identify each meeting and telephone conversation you had with Marsha Schubert in which the investment of money was discussed and identify who was present at the meeting or on the telephone call.

**INTERROGATORY NO. 8:** Identify each investment you made through Marsha Schubert and the amount of money you either gained or lost when the investment was sold or liquidated.

**INTERROGATORY NO. 9:** Identify any documents you received from any person or entity confirming or reflecting each of the investments identified in the preceding interrogatory, including in the answer a statement of whether you always received confirmation statements confirming each of your investments through Marsha Schubert? If you did not receive such confirmation statements after each investment, please describe the circumstances under which you received such confirmation statements and when you did not.

**INTERROGATORY NO. 10:** With respect to any moneys you lost as a result of your investments in Marsha Schubert's purported investment program, state the amount of your claimed loss, identify how it was computed, and the date it was incurred or is expected to be incurred, and identify all documents referring to or relating to each such item or calculation.

**INTERROGATORY NO. 11:** Identify whether you consulted or spoke to an attorney concerning Marsha Schubert or your investments through Marsha Schubert at any time prior to October 14, 2004.

**INTERROGATORY NO. 12:** Identify all persons whom you told that you were investing through Marsha Schubert prior to October 14, 2004, and describe with particularity their relationship to you and the date(s), time(s) and substance of your conversation(s).

**INTERROGATORY NO. 13:** Did you make any inquiry of any employee or representative of AXA Advisors, LLC or Wilbanks Securities either by telephone or in writing about Marsha Schubert prior to or after October 14, 2004. If so, when was the inquiry and identify the person to whom you inquired or spoke.

**INTERROGATORY NO. 14:** Did you always receive monthly or other interim statements identifying all of your investments for the period through which you invested with Marsha Schubert? If so, how often did you receive such statements.

**INTERROGATORY NO. 15:** Identify by name, address, and telephone number each and every CPA, accountant, and/or tax advisor utilized by you from January 2000 through December 2005.

**INTERROGATORY NO. 16:** Identify all persons who have given written or recorded statements concerning the subject matter of this action, and state the date of each such statement, the identity of the person taking the statement, and the identity of its present custodian.

**INTERROGATORY NO. 17:** Identify all persons not identified in your answers to the other interrogatories who have personal knowledge of facts pertinent to the subject matter of this litigation, and for each person separately state the facts and observations within their knowledge.

**INTERROGATORY NO. 18:** Identify by name, address, and telephone number each and every individual you intend to call as an expert in this case.

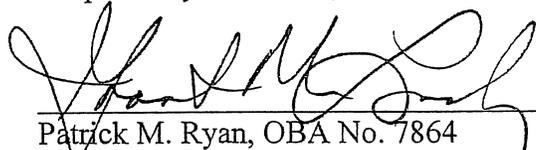
**INTERROGATORY NO. 19:** Have you ever been involved in any claims, arbitrations, or lawsuits regarding your participation in Marsha Schubert's purported investment program and/or any injury or damage suffered by you arising out of the subject matter of this litigation? If your answer to this interrogatory is in the affirmative, please provide a list of the claims, arbitrations, or lawsuits. Your answer should include, but not necessarily be limited to: (a) an

identification of the claims made by you; (b) the year such claim, arbitration, or lawsuit was made or taken; (c) the court (or other forum) in which the lawsuit or claim was made and the cause number or identifying number used; (d) the name(s) of the other parties involved; and (e) the outcome or resolution of the matter.

**INTERROGATORY NO. 20:** State whether you have entered into any release, settlement, compromise, or other agreement, formal or informal, whether reduced to writing or not, pursuant to which the liability of any person for any injury or damage arising out of the subject matter of this litigation has been limited, reduced or released in any manner. If your answer to this interrogatory is in the affirmative, please identify: (a) the person or entity with whom the release, settlement, or agreement was entered; (b) the date of the agreement; (c) the amount of the release, settlement, compromise, or agreement; (d) all documents reflecting said release, settlement, compromise, or other agreement.

**INTERROGATORY NO. 21:** Identify the number of distributions made to you by the court-appointed Receiver, Douglas L. Jackson or his lawyer(s), and the amount of each distribution.

Respectfully submitted,



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Patrick M. Ryan, OBA No. 7864

Daniel G. Webber, Jr., OBA No. 16332

Matthew C. Kane, OBA No. 19502

Grant M. Lucky, OBA No. 17398

**RYAN WHALEY COLDIRON SHANDY PC**  
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Telephone: (405) 239-6040  
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***ATTORNEYS FOR DEFENDANTS  
FARMERS & MERCHANTS BANK, FARMERS  
& MERCHANTS BANCSHARES, INC., JOHN  
V. ANDERSON and JOHN TOM ANDERSON***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of January 2008, a true and correct copy of the above and foregoing instrument was mailed, via Certified Mail, Return Receipt Requested, to:

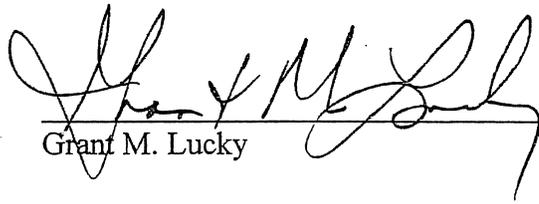
Joseph H. Bocock  
Spencer F. Smith.  
McAfee & Taft  
A Professional Corporation  
Tenth Floor, Two Leadership Square  
211 N. Robinson Avenue  
Oklahoma City, OK 73102-7102

Kurtis J. Ward  
Law Offices of Kurtis J. Ward  
East Wharf Plaza  
9225 Lake Hefner Pkwy., Suite 101  
Oklahoma City, OK 73120

and via U.S. Mail, first-class, postage prepaid, to:

Melanie Hall  
Amanda Cornmesser  
Gerri Stuckey  
Oklahoma Department of Securities  
120 North Robinson Avenue, Suite 860  
Oklahoma City, Oklahoma 73102

Ann L. Hoover  
5611 S.W. Barrington Ct. S., Suite 100  
Topeka, Kansas 66614-2489



Grant M. Lucky

**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

FARMERS & MERCHANTS BANK, et al. )

Defendants, )

and )

ROBERT LYNN POURCHOT, Trustee of the )  
Robert Lynn Pourchot Trust, et al., )

Intervenors. )

**DEFENDANTS' FIRST REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO INTERVENORS**

Defendant Farmers & Merchants Bank (a state chartered Oklahoma banking entity), John V. Anderson (individually and as an officer and director of Farmers & Merchants Bank), and John and Tom Anderson (individually and as an officer and director of Farmers & Merchants Bank) (collectively referred to as "Defendants"), pursuant to 12 O.S. §3234, direct the following First Requests for Production of Documents to Intervenors. The requested documents should be timely produced for inspection and copying at the offices of Ryan Whaley Coldiron Shandy, 900 Robinson Renaissance, 119 North Robinson, Oklahoma City, Oklahoma, within thirty (30) days of service.



## DEFINITIONS AND TERMS USED HEREIN

The following terms shall have the meanings set forth below:

1. The term "Intervenors" shall mean Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments, LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust; Richard Reynolds; Richard Reynolds, Trustee of the Richard Reynolds Living Trust; Annenda Reynolds; Steven B. Sanders; Vicki L. Sanders; and Crandall & Sanders, Inc. and any person, employee, agent, or representative acting on their behalf.
2. The terms "you" and "your" shall mean the respective Intervenors in this lawsuit and any person, employee, agent, or representative acting on their behalf.
3. "Document" or "writing" means any form of data compilation whether produced, reproduced, or stored on paper, cards, tapes, disks, belts, charts, films, computer storage devices, or any other medium and shall include, but not be limited to, any letter, note, electronic mail ("e-mail"), memorandum, article, book, published material, report, study, statement, speech, notebook, application, calendar, working paper, manual, brochure, analysis, telegram, transcript, summary, diary, agreement, contract, log, appointment book, graph, drawing, chart, financial statement, bank statement, bank check, deposit slip, receipt, invoice, bookkeeping entry, photograph, photostat, microfilm, x-ray film, sound recording, motion picture, videotape, or any other type of mechanical, electronic or magnetic impulse recording, and shall also include, but not be limited to, any draft or copy (with or without notes of changes thereon) of a writing or document in the possession, custody or control of the Intervenors or any officer, employee, consultant, agent, or counsel of or for the Intervenors.

4. With respect to documents or writings, the word "identify" means that you are to state:

- (a) the form of the document or writing (*e.g.*, letter, memorandum, *etc.*);
- (b) the date of its preparation;
- (c) the author, recorder, or sender;
- (d) each addressee or recipient;
- (e) the subject matter;
- (f) the name and address of any persons presently having custody or control of the same or a true copy of the document;
- (g) whether you consider the document to be privileged;
- (h) whether the document is in your possession, custody or control, and if not, state what disposition was made of it, the date and reason for such disposition, the information you have as to its present location and its contents or substance if known.

5. "Communication" means and includes any written, oral, telephonic or other inquiry, representation, discussion, conversation, negotiation, agreement, understanding, meeting, letter, note, telegraph, facsimile, telex, computer transmission, advertisement or interview and any other communication, representation, or statement which is not fully contained in a document or writing.

6. With respect to a communication, the word "identify" means that you are to:

- (a) state whether such communication was in person, by telephone or otherwise;
- (b) state the date, place and persons present or involved;

- (c) give a summary of the communication or statement of each person participating;
- (d) identify each document within your possession, custody or control which reports, summarizes or otherwise in any way memorializes or refers to such communication or the subject matter of anything discussed or considered in such communication.

7. "Person" or "persons" shall be used to mean any natural persons or individuals, corporations, partnerships, firms, joint ventures, associations, or any other entities or ventures, including any successor in interest to such entity if liquidated or merged, and any governmental employees, agency, bureau, commissions, or governmental entity.

8. With respect to person or persons, the word "identify" means that you are to state the name and most recently known information regarding the place of residence, business address, employer and job title of each such person; and, if not a natural person, state in addition the nature of the entity described (*e.g.*, corporation, partnership, *etc.*).

9. "Regarding," "relating to" or "concerning" shall mean to consist of, refer to, pertain to, reflect, evidence or be in any way logically or factually connected with the matter discussed.

10. "Knowledge" includes first-hand information and information derived from any other source, including hearsay knowledge.

11. In the event that any document called for by this request has been destroyed or discarded, that document is to be identified as follows:

- (a) the name, address, employer and job title of each person who signed or helped prepare the document and each person to whom it was addressed;

- (b) each indicated or blind copy;
- (c) the document's date, subject matter, number of pages and attachments or appendices;
- (d) the name, address, employer and job title of all persons to whom the document was distributed, to whom the document was shown, or to whom the document was explained;
- (e) its date of destruction or discard, manner of destruction or discard, and reason for destruction or discard;
- (f) the person who authorized such destruction or discard; and
- (g) the privilege asserted.

12. The terms "sale," "investment adviser," "agent," "broker-dealer," "security," and "investment adviser representative" are defined terms under the Oklahoma Securities Act and have those meanings ascribed to them therein, unless the context otherwise requires.

13. The term "Receiver" shall mean the court appointed receiver in the Logan County Suit, Case No. CJ-2004-256, *Oklahoma Department of Securities ex re. Irving L. Faught, Administrator v. Marsha Schubert, et al.*

14. Unless otherwise stated, the term "relevant time period" shall mean the time period covering the three (3) years prior to your first investment activity with or through Marsha Schubert through the date your Petition in Intervention was filed.

### **INSTRUCTIONS**

1. These discovery requests are intended to ascertain information from and require you to make a full and complete search of all records and evidence in the custody, possession, or

at the disposal of you or your agents, investigators, servants, or employees, including attorneys or accountants.

2. These discovery requests are continuing. If the answers or responses to the same change before trial of this action, you are required to furnish supplemental answers and/or documents, in writing and under oath, or it will be assumed the answers originally given are accurate and complete.

3. In the event that you **object** to any request or part thereof, please provide the following information:

- (a) a detailed statement of the grounds for your objection;
- (b) if the document request seeks information which is objected to on the grounds of attorney-client privilege or the work product doctrine, provide:
  - (i) the name, address, phone number, and place of employment of all persons present at the time of any communication or who signed or helped prepare the document or who were subsequently provided any memorialization of any such communication and each person to whom it was addressed;
  - (ii) state the general subject matter of the information which is objected to;
  - (iii) state the date of any communication, the name of the person to whom the communication was made, the physical location of where the communication was made, and the date of the communication.

4. Documents requested shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests.

## REQUESTS FOR PRODUCTION OF DOCUMENTS

By these Requests for Production of Documents, Defendants seek the production of all documents relating to the present controversy between the parties. The following specific requests are not intended to narrow this scope, but are only intended to help effectuate this stated purpose.

As set forth in the instructions, **documents requested shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests.**

**REQUEST NO. 1:** All documents referring or relating to Marsha Schubert, Schubert & Associates, and/or your accounts maintained at AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc., whether held individually or jointly with another, including not limited to the following documents:

- (a) All statements (to include monthly, quarterly, and/or annual summary of investment activity), confirmations, and opening account forms for your account(s) with Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.;
- (b) All agreements, forms, information, or other documents relating to your account(s) with Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc. either signed by you or provided by you to Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.;
- (c) All diaries, journals, notebooks, or other documents maintained by you or on your behalf referring or relating to or reflecting any conversations with

Marsha Schubert, AXA Advisors, L.L.C., Wilbanks Securities, Inc., and/or any representative or employee of AXA or Wilbanks regarding any matter whatsoever; and

- (d) All correspondence, memoranda, diaries, notes, spreadsheets, and other documents that refer or relate to Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc. and your account(s) with them.

**REQUEST NO. 2:** All documents which refer or relate, directly or indirectly, to any of your investments with or through Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc., including, but not limited to, booklets, pamphlets, prospectuses, financial questionnaires, applications, reports, memoranda, articles, notations, books, treatises, spreadsheets, research, and other written materials.

**REQUEST NO. 3:** All letters, written inquiries, or any other documents you sent to AXA Advisors, L.L.C. or Wilbanks Securities regarding Marsha Schubert or any investments you made with or through Marsha Schubert.

**REQUEST NO. 4:** All documents, including monthly statements, account forms, and correspondence, referring or relating to or reflecting account(s) maintained or owned by you, individually or jointly with another, or with a beneficial interest by you at any brokerage firm other than AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc. during the relevant time period. This request includes all statements or summaries of account(s) you had with any investment advisor, broker-dealer, or other person or entity who invested money on your behalf. (If you are not in possession of said documents but have maintained such accounts, please

indicate the firm with which you have maintained each such account, the branch office you dealt with, the name of your broker/advisor, and the account numbers).

**REQUEST NO. 5:** All contracts, agreements, or any other documents relating to your account(s) with each such investment advisor, broker-dealer, or other period or entity who invested money on your behalf during the relevant time period.

**REQUEST NO. 6:** All documents that refer or relate to your monthly and annual income from any and all sources, including but limited to investments, pensions, employment, inheritance, legal settlements, or trusts for the period of 1998 through the present.

**REQUEST NO. 7:** All documents, including but not limited to prospectuses, sales material, annual reports, quarterly reports, or other press releases, tender offers, etc. which you have received from any source that refer or relate to any of your investments with or through Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc.

**REQUEST NO. 8:** All documents, including but not limited to prospectuses, sales material, annual reports, quarterly reports, or other press releases, tender offers, etc. which you have received from any source that refer or relate to any of your investments in any account(s) maintained or owned by you, individually or jointly with another, at any brokerage firm other than AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.

**REQUEST NO. 9:** All documents reflecting Individual Retirement Accounts, Keogh Plans, pension plans, or trusts in which you were/are owner, participant, or beneficiary and/or recipient of funds, either individually or jointly with another.

**REQUEST NO. 10:** To the extent not covered by previous items, all documents that refer or relate directly or indirectly, to your ownership of investments of any kind and description

during the relevant time period, including but not limited to certificates of deposit, mutual funds, stocks, options, bonds, annuities, warrants, limited partnerships, gold or gold ventures, stocks, penny stocks, commodities, private or public corporations, joint ventures, or other entities.

**REQUEST NO. 11:** All writings reflecting subscriptions by you to financial publications and on-line services during the relevant time period, including, but not limited to, the Wall Street Journal, Business Week, Forbes, Money Magazine, or Barrons, from 1998 through the present.

**REQUEST NO. 12:** All writings read, utilized, considered, consulted, prepared, or reviewed by you between 1998 and 2005, relating to trading or investments in securities and/or "pooled accounts," including, without limitation, all prospectuses, books, charts, research, analyses, manuals, magazines, newspaper articles, and brochures containing information regarding trading or investments in said securities and/or promotional materials or literature from companies or from general partners or from brokers, including but not limited to Marsha Schubert, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.

**REQUEST NO. 13:** All documents that evidence, refer, or relate to your ownership of or control over any business entity, including general and limited partnerships and closely held corporations.

**REQUEST NO. 14:** All documents reviewed or relied upon by you in making the investment decision(s) at issue.

**REQUEST NO. 15:** All documents reflecting lawsuits or arbitrations involving securities matters in which you are or were a party.

**REQUEST NO. 16:** All complaints by your or on your behalf involving securities matters and the responses to said complaints.

**REQUEST NO. 17:** All claims, agreements, motions, pleadings, discovery documents, transcripts, tape recordings, correspondence, orders, exhibits, and any other documents that were obtained through and/or refer/relate to Case Number 04-07933, *In the Matter of the Arbitration Between Claimants Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust, et al., and Respondents AXA Advisors LLC and Marsha Schubert.*

**REQUEST NO. 18:** All documents that evidence, refer, or relate to your discovery of the alleged wrongdoings committed by Defendants as described by you in your Petition in Intervention. If no writings exist or are not in your possession, custody, or control, please state how and when you discovered the alleged wrongdoings.

**REQUEST NO. 19:** All documents sufficient to identify all persons that were involved in each alleged sale of a security to you as part of Marsha Schubert's purported investment program.

**REQUEST NO. 20:** All documents relating to any formal or informal inquiries, investigations, lawsuits or regulatory actions by any state, federal, or private agency or entity concerning the following:

- (a) Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., Wilbanks Securities, Inc., BancFirst, F&M Bank, Farmers & Merchants Bancshares, Inc., or any of the Individual Defendants' compliance with federal and/or state laws and regulations;
- (b) Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., or Wilbanks Securities, Inc.'s compliance with regulations of registered broker-dealers.

**REQUEST NO. 21:** To the extent not covered by previous items, all documents concerning any alleged sale or purchase made by you relating to Marsha Schubert's purported investment program.

**REQUEST NO. 22:** All documents concerning communications or writings about this litigation, whether internal or received from or sent to any other person or entity.

**REQUEST NO. 23:** All documents concerning any actual or potential violation by AXA Advisors, L.L.C., Wilbanks Securities, Inc., and/or BancFirst of any securities law or regulation relating to Schubert's purported investment program.

**REQUEST NO. 24:** All documents received from or provided to any lawyer representing the Receiver, the Oklahoma Department of Securities, Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., BancFirst, or Wilbanks Securities, Inc. relating to the subject matter of this litigation.

**REQUEST NO. 25:** All documents evidencing your investment monies being deposited by Marsha Schubert into bank accounts owned or controlled by Marsha Schubert, excluding Schubert's F&M accounts.

**REQUEST NO. 26:** All documents reflecting the amount of monies distributed to you by the Receiver from any source.

**REQUEST NO. 27:** All bank statements, cancelled checks, and any other documents reflecting your investment or payment to Marsha Schubert as part of her purported investment program.

**REQUEST NO. 28:** To the extent not covered by previous items, all documents concerning or evidencing the amount(s) invested by you with Marsha Schubert, Schubert & Associates, AXA Advisors, LLC, and/or Wilbanks Securities.

**REQUEST NO. 29:** All documents concerning or evidencing any amounts paid by Wilbanks Securities or AXA Advisors, LLC to you, including any amounts where there is a legal obligation to pay.

**REQUEST NO. 30:** All financial statements or similar statements reflecting your assets, liabilities, and/or net worth during the relevant time period.

**REQUEST NO. 31:** All federal and state tax returns filed on your behalf for the years 1997 through 2006.

**REQUEST NO. 32:** All documents concerning any due diligence efforts undertaken by you, your representatives, or any other person in connection with each transaction involving Marsha Schubert's purported investment programs.

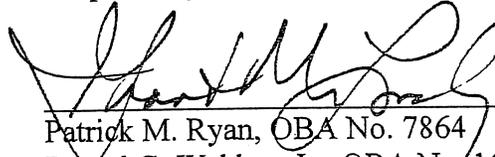
**REQUEST NO. 33:** All previously prepared written statements by persons with knowledge of the facts and circumstances related to the subject matter of this litigation, including those by accountants, tax advisors, financial planners, or other associated person(s), and any other third party.

**REQUEST NO. 34:** All documents showing action taken by you to limit your losses in connection with your investments with or through Marsha Schubert.

**REQUEST NO. 35:** All documents identified, reviewed, referred to, or relied upon in your answers to Defendants' interrogatories.

**REQUEST NO. 36:** All documents evidencing any release, settlement, or other agreement pursuant to which the liability of any person for any injury or damage arising out of the subject matter of this litigation has been limited, reduced, or released in any manner.

Respectfully submitted,



Patrick M. Ryan, OBA No. 7864

Daniel G. Webber, Jr., OBA No. 16332

Matthew C. Kane, OBA No. 19502

Grant M. Lucky, OBA No. 17398

**RYAN WHALEY COLDIRON SHANDY PC**

900 Robinson Renaissance

119 North Robinson

Oklahoma City, Oklahoma 73102

Telephone: (405) 239-6040

Facsimile: (405) 239-6766

**ATTORNEYS FOR DEFENDANTS**

**FARMERS & MERCHANTS BANK, JOHN V.**

**ANDERSON and JOHN TOM ANDERSON**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of January 2008, a true and correct copy of the above and foregoing instrument was mailed, via Certified Mail, Return Receipt Requested, to:

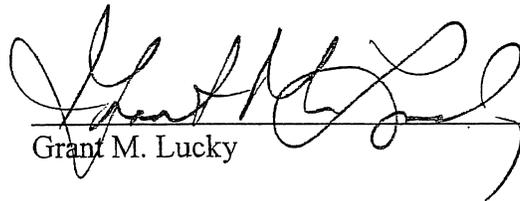
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Amanda Cornmesser  
Gerri Stuckey  
Oklahoma Department of Securities  
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Oklahoma City, OK 73102

Ann L. Hoover  
5611 S.W. Barrington Ct. S., Suite 100  
Topeka, KS 66614-2489



Grant M. Lucky

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA**

OKLAHOMA DEPARTMENT OF SECURITIES, )  
*ex rel.*, Irving L. Faight, Administrator, )  
 )  
Plaintiffs, )

v. )

Case No.: **CJ-2006-3311**

FARMERS & MERCHANTS BANK, an )  
Oklahoma banking entity; JOHN V. ANDERSON, )  
Individually, and as Officer and Director of )  
Farmers & Merchants Bank; and JOHN TOM )  
ANDERSON, Individually, and as Officer )  
and Director of Farmers & Merchants Bank, )

Defendants, )

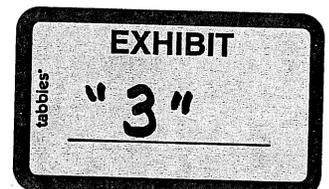
and )

ROBERT LYNN POURCHOT, Trustee of the )  
Robert Lynn Pourchot Trust; DONALD W. ORR, )  
Trustee of the Pork Chop Trust; THE WILL )  
FOUNDATION; POURCHOT INVESTMENTS, )  
LP; PHILLIP M. POURCHOT, Trustee of the )  
Phillip M. Pourchot Revocable Trust; RICHARD )  
REYNOLDS; RICHARD REYNOLDS, Trustee of )  
the Richard Reynolds Living Trust; ANNENDA )  
REYNOLDS; STEVEN B. SANDERS; VICKI L. )  
SANDERS; and CRANDALL & SANDERS, INC., )

Intervenors. )

**INTERVENORS' ANSWER TO DEFENDANTS'  
FIRST SET OF INTERROGATORIES**

Intervenors, Robert Lynn Pourchot, Trustee of The Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of The Pork Chop Trust; The Will Foundation; Pourchot Investments, LP; Phillip M. Pourchot, Trustee of The Phillip M. Pourchot Revocable Trust; Richard Reynolds; Richard Reynolds, Trustee of The Richard Reynolds Living Trust; Annenda Reynolds; Steven B.



Sanders, Vicki L. Sanders, and Crandall & Sanders, Inc. (collectively "Intervenors") answers Defendant's First Set of Interrogatories as follows:

**GENERAL OBJECTIONS AND QUALIFICATIONS**

These general objections and qualifications apply to all of the discovery requests and are in addition to any other objections set forth below.

1. Intervenors object to the discovery requests that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

2. Intervenors object to the discovery requests to the extent they call for disclosure of information subject to the attorney-client privilege and/or work-product doctrine. To the extent that any such information is inadvertently revealed, Intervenors reserve their privilege(s) with respect to such information and their right to object to the admissibility of such information.

3. Intervenors object to the disclosure of any information that was prepared in anticipation of or for trial by or for them or any of their representatives or that is otherwise beyond the permissible scope of discovery.

4. Each of the following responses is made without waiving any objections Intervenors may have with respect to the subsequent use of these responses or the documents referred to herein or produced pursuant hereto, and Intervenors specifically reserve: (a) all questions as to the competency, privilege, relevancy, materiality and admissibility of said responses or documents; (b) the right to object to the use of said responses or documents in any lawsuit or proceeding on any or all of the foregoing grounds or any other proper grounds; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involved

or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct, or clarify any of the following responses.

5. Intervenors object to the definitions and instructions contained in the discovery requests to the extent that they attempt to impose discovery obligations, burdens or requirements upon Intervenors greater than or in addition to those established by the Oklahoma Rules of Civil Procedure.

6. Intervenors are continuing to investigate and research the matters involved in this lawsuit. Intervenors reserve the right, as additional information is discovered, analyzed or made available during discovery in the course of the proceedings, to supplement and/or revise these responses.

7. All documents which Intervenors produce pursuant to the interrogatories will be made available for inspection and copying in the offices of McAfee & Taft A Professional Corporation, Tenth Floor, Two Leadership Square, 211 North Robinson, Oklahoma City, Oklahoma. The documents will be produced within a reasonable time after the service of these responses and at a time that is mutually agreed to by counsel for the parties.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify each person who supplied information utilized in preparing the answers and responses to each interrogatory and request for production, including in your answer their full name, current address, date of birth, and a description of their participation in helping prepare the answers and responses. As to any information furnished in answer to an interrogatory which is not within the personal knowledge of the person signing the answers, identify each person having personal knowledge of the information.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the Intervenors and their counsel of record.

**INTERROGATORY NO. 2:** Provide a narrative description of the facts and circumstances surrounding how and when you first discovered, met, and/or contacted Marsha Schubert regarding using her to invest monies on your behalf. If you were referred to Marsha Schubert, please provide the name, address, and telephone number of the person who referred you to Marsha Schubert and the approximate date of the referral.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 3:** With respect to each Intervenor, and for the period of time identified by you in paragraph 7 of your Petition in Intervention (January 2000 through October 2004) relative to your investment in Schubert's purported investment program, please identify the following:

- (a) The date(s) that Marsha Schubert sold a security to you;
- (b) Facts evidencing a sale of a security, including the method of payment;
- (c) A description of the security;
- (d) Whether the sale was solicited or unsolicited. If the sale was solicited, identify the person(s) who solicited the sale;

- (e) A description of the material terms of the sale;
- (f) A description of each statement made by Marsha Schubert to you, including, but not limited to, the time, place, and content of each statement, alleged by you to have been in violation of 71 O.S. § 408(a)(2) and/or 71 O.S. § 1-509(C);
- (g) The material or principal facts upon which you rely as evidence of each Defendant's material participation and/or material aid in each sale of a security as described above;
- (h) Identify the documents evidencing the sale;
- (i) Identify the person(s) who witnessed each sale to you;
- (j) Identify whether you received any confirmation, monthly statement, periodic report, or any other document from any source which evidenced Schubert's purchase of securities through funds you provided to her.

**ANSWER:** Intervenor object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence in that it requests information related to sales of securities to the Intervenor that were not part of the Purported Investment Program. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenor except Richard and Annenda Reynolds.

**INTERROGATORY NO. 4:** Identify the material or principal facts upon which you rely as evidence that you "did not and could not with the exercise of reasonable diligence have known of the misconduct of Defendants . . . until the public release of the BKD Report by the Receiver on March 23, 2005," as alleged by you in paragraph 11 of your Petition in Intervention.

**ANSWER:** Intervenor object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to these objections, Intervenor did not discover Defendants'

misconduct in connection with their participation in Schubert's scheme until the BKD Report was released. In addition, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 5:** Identify the name of each investment advisor, broker-dealer, or other person or entity who has invested funds on your behalf. Please provide the dates you used each such person or entity.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 6:** Identify the name of each banking institution in which you deposited money during the time period you invested funds with or through Marsha Schubert.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 7:** Identify each meeting and telephone conversation you had with Marsha Schubert in which the investment of money was discussed and identify who was present at the meeting or on the telephone call.

**ANSWER:** Intervenor object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to the objections, Intervenor had numerous meetings and telephone conversations with Marsha Schubert regarding their investment in the Purported Investment Program. Intervenor are making documents regarding any such meetings and telephone conversations available for inspection and copying. In addition, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenor except Richard and Annenda Reynolds.

**INTERROGATORY NO. 8:** Identify each investment you made through Marsha Schubert and the amount of money you either gained or lost when the investment was sold or liquidated.

**ANSWER:** Intervenor object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it requests information related to the Intervenor's investments that were not part of the Purported Investment Program. Subject to these objections, *see* the publicly available Report prepared by Baird, Kurtz and Dobson released by the Receiver on March 23, 2005 ("BKD Report") for information related to Intervenor's investment in the Purported Investment Program and other documents that Intervenor are making available for inspection and copying. In addition, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenor except Richard and Annenda Reynolds.

**INTERROGATORY NO. 9:** Identify any documents you received from any person or entity confirming or reflecting each of the investments identified in the preceding interrogatory, including in the answer a statement of whether you always received confirmation statements confirming each of your investments through Marsha Schubert? If you did not receive such confirmation statements after each investment, please describe the circumstances under which you received such confirmation statements and when you did not.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it requests information related to the Intevenors' investments that were not part of the Purported Investment Program. Subject to these objections, Intervenors will make responsive, relevant documents available for inspection and copying related to their investment in the Purported Investment Program.

**INTERROGATORY NO. 10:** With respect to any moneys you lost as a result of your investments in Marsha Schubert's purported investment program, state the amount of your claimed loss, identify how it was computed, and the date it was incurred or is expected to be incurred, and identify all documents referring to or relating to each such item or calculation.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to these objections, *see* the BKD Report. In addition, Intervenors will make responsive, relevant documents available for inspection and copying related to their losses in connection with their investment in the Purported Investment Program, and the transcripts of the arbitration proceedings identified in response to interrogatory no. 19

will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 11:** Identify whether you consulted or spoke to an attorney concerning Marsha Schubert or your investments through Marsha Schubert at any time prior to October 14, 2004.

**ANSWER:** No.

**INTERROGATORY NO. 12:** Identify all persons whom you told that you were investing through Marsha Schubert prior to October 14, 2004, and describe with particularity their relationship to you and the date(s), time(s) and substance of your conversation(s).

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 13:** Did you make any inquiry of any employee or representative of AXA Advisors, LLC or Wilbanks Securities either by telephone or in writing about Marsha Schubert prior to or after October 14, 2004. If so, when was the inquiry and identify the person to whom you inquired or spoke.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is vague and ambiguous and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory

no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 14:** Did you always receive monthly or other interim statements identifying all of your investments for the period through which you invested with Marsha Schubert? If so, how often did you receive such statements.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is vague and ambiguous and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it requests information related to the Intervenors' investments that were not part of the Purported Investment Program. Subject to these objections, the answer is no. However, Intervenors will make responsive documents related to statements received in connection with Purported Investment Program available for inspection and copying.

**INTERROGATORY NO. 15:** Identify by name, address, and telephone number each and every CPA, accountant, and/or tax advisor utilized by you from January 2000 through December 2005.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 will be produced subject to the Protective Order in this matter, which respond to this interrogatory for all Intervenors except Richard and Annenda Reynolds.

**INTERROGATORY NO. 16:** Identify all persons who have given written or recorded statements concerning the subject matter of this action, and state the date of each such statement, the identity of the person taking the statement, and the identity of its present custodian.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to these objections, *see* the statements identified by ODS in response to Defendants' interrogatory no. 19 to ODS.

**INTERROGATORY NO. 17:** Identify all persons not identified in your answers to the other interrogatories who have personal knowledge of facts pertinent to the subject matter of this litigation, and for each person separately state the facts and observations within their knowledge.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to these objections, *see* the individuals identified by ODS in response to Defendants' interrogatory no. 20 to ODS.

**INTERROGATORY NO. 18:** Identify by name, address, and telephone number each and every individual you intend to call as an expert in this case.

**ANSWER:** Intervenors have not retained an expert witness at this time.

**INTERROGATORY NO. 19:** Have you ever been involved in any claims, arbitrations, or lawsuits regarding your participation in Marsha Schubert's purported investment program and/or any injury or damage suffered by you arising out of the subject matter of this litigation? If your answer to this interrogatory is in the affirmative, please provide a list of the claims, arbitrations, or lawsuits. Your answer should include, but not necessarily be limited to: (a) an identification of the claims made by you; (b) the year such claim, arbitration, or lawsuit was made or taken; (c) the court (or other forum) in which the lawsuit or claim was made and the

cause number or identifying number used; (d) the name(s) of the other parties involved; and (e) the outcome or resolution of the matter.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Intervenors further object to the extent the interrogatory requests confidential information related to arbitration proceedings or settlement agreements. Subject to these objections, Intervenors were parties to the following arbitrations: (i) *Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot 1998 Qualified Annuity Trust; Donald W. Orr, Trustee of the Pork Chop Trust; the Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust; Robert L. Talley and Pamela J. Talley v. AXA Advisors, LLC and Marsha Schubert*, NASD Claim No. 04-07933; Intervenors are making a copy of the Award available for inspection and copying; (ii) *Richard Reynolds, Richard Reynolds, Trustee of the Richard Reynolds Living Trust, Steve Sanders, Crandall & Sanders, Inc., Tim Blair, Cheri Blair, Blair Minerals Ltd, LLC, Craig Blair, Rae Blair, Kent Blair and John Vance v. AXA Advisors, LLC, Wilbanks Securities, Inc., and Marsha Schubert*, NASD Claim No. 05-00698. Intervenors will make the transcripts and responsive pleadings in these arbitrations and settlement agreements with AXA and Wilbanks available for inspection and copying subject to the Protective Order.

**INTERROGATORY NO. 20:** State whether you have entered into any release, settlement, compromise, or other agreement, formal or informal, whether reduced to writing or not, pursuant to which the liability of any person for any injury or damage arising out of the subject matter of this litigation has been limited, reduced or released in any manner. If your

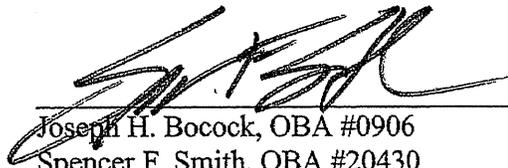
answer to this interrogatory is in the affirmative, please identify: (a) the person or entity with whom the release, settlement, or agreement was entered; (b) the date of the agreement; (c) the amount of the release, settlement, compromise, or agreement; (d) all documents reflecting said release, settlement, compromise, or other agreement.

**ANSWER:** Intervenors object to this interrogatory on the grounds that it is overly broad and unduly burdensome and requests information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Intervenors further object to the extent the interrogatory requests confidential information related to the terms of any settlement agreements. Subject to these objections, Intervenors will make the settlement agreements with AXA and Wilbanks available for inspection and copying subject to the Protective Order.

**INTERROGATORY NO. 21:** Identify the number of distributions made to you by the court-appointed Receiver, Douglas L. Jackson or his lawyer(s), and the amount of each distribution.

**ANSWER:** Intervenors will produce documents identifying the number and amount of distributions made by the Receiver.

Respectfully submitted this 19<sup>th</sup> day of March, 2008.



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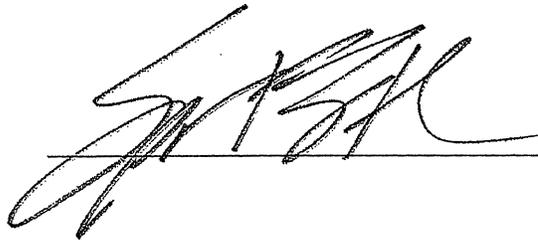
**ATTORNEYS FOR INTERVENORS**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of March, 2008, a true and correct copy of the foregoing was mailed, via U.S. First Class Mail, postage prepaid, to the following counsel of record:

Melanie Hall  
Amanda Cornmesser  
Gerri Stuckey  
Oklahoma Department of Securities  
120 N. Robinson Avenue, Suite 860  
Oklahoma City, OK 73102

Patrick M. Ryan  
Daniel G. Webber, Jr.  
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Ryan Whaley & Coldiron  
119 N. Robinson Avenue, Suite 900  
Oklahoma City, OK 73102



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Sanders, Vicki L. Sanders, and Crandall & Sanders, Inc. (collectively "Intervenors") responds to Defendant's First Requests For Production of Documents as follows:

### **GENERAL OBJECTIONS AND QUALIFICATIONS**

These general objections and qualifications apply to all of the discovery requests and are in addition to any other objections set forth below.

1. Intervenors object to the discovery requests that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

2. Intervenors object to the discovery requests to the extent they call for disclosure of information subject to the attorney-client privilege and/or work-product doctrine. To the extent that any such information is inadvertently revealed, Intervenors reserve their privilege(s) with respect to such information and their right to object to the admissibility of such information.

3. Intervenors object to the disclosure of any information that was prepared in anticipation of or for trial by or for them or any of their representatives or that is otherwise beyond the permissible scope of discovery.

4. Each of the following responses is made without waiving any objections Intervenors may have with respect to the subsequent use of these responses or the documents referred to herein or produced pursuant hereto, and Intervenors specifically reserve: (a) all questions as to the competency, privilege, relevancy, materiality and admissibility of said responses or documents; (b) the right to object to the use of said responses or documents in any lawsuit or proceeding on any or all of the foregoing grounds or any other proper grounds; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involved

or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct, or clarify any of the following responses.

5. Intervenors object to the definitions and instructions contained in the discovery requests to the extent that they attempt to impose discovery obligations, burdens or requirements upon Intervenors greater than or in addition to those established by the Oklahoma Rules of Civil Procedure.

6. Intervenors are continuing to investigate and research the matters involved in this lawsuit. Intervenors reserve the right, as additional information is discovered, analyzed or made available during discovery in the course of the proceedings, to supplement and/or revise these responses.

7. All documents which Intervenors produce pursuant to the requests will be made available for inspection and copying in the offices of McAfee & Taft A Professional Corporation, Tenth Floor, Two Leadership Square, 211 North Robinson, Oklahoma City, Oklahoma. The documents will be produced within a reasonable time after the service of these responses and at a time that is mutually agreed to by counsel for the parties.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** All documents referring or relating to Marsha Schubert, Schubert & Associates, and/or your accounts maintained at AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc., whether held individually or jointly with another, including not limited to the following documents:

- (a) All statements (to include monthly, quarterly, and/or annual summary of investment activity), confirmations, and opening account forms for your account(s) with Marsha Schubert, Schubert & Associates, AXA Advisors,

L.L.C. and/or Wilbanks Securities, Inc.;

- (b) All agreements, forms, information, or other documents relating to your account(s) with Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc. either signed by you or provided by you to Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.;
- (c) All diaries, journals, notebooks, or other documents maintained by you or on your behalf referring or relating to or reflecting any conversations with Marsha Schubert, AXA Advisors, L.L.C., Wilbanks Securities, Inc., and/or any representative or employee of AXA or Wilbanks regarding any matter whatsoever; and
- (d) All correspondence, memoranda, diaries, notes, spreadsheets, and other documents that refer or relate to Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc. and your account(s) with them.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenors' investments that were not part of the Purported Investment Program. Subject to these objections, Intervenors will make responsive documents related to the Purported Investment Program and the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 2:** All documents which refer or relate, directly or indirectly, to any of

your investments with or through Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc., including, but not limited to, booklets, pamphlets, prospectuses, financial questionnaires, applications, reports, memoranda, articles, notations, books, treatises, spreadsheets, research, and other written materials.

**RESPONSE:** Intervenor object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenor's investments that were not part of the Purported Investment Program. Subject to these objections, Intervenor will make responsive documents related to the Purported Investment Program and the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 3:** All letters, written inquiries, or any other documents you sent to AXA Advisors, L.L.C. or Wilbanks Securities regarding Marsha Schubert or any investments you made with or through Marsha Schubert.

**RESPONSE:** Intervenor object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenor's investments that were not part of the Purported Investment Program. Subject to these objections, Intervenor will make responsive documents related to the Purported Investment Program available for inspection and copying.

**REQUEST NO. 4:** All documents, including monthly statements, account forms, and correspondence, referring or relating to or reflecting account(s) maintained or owned by you, individually or jointly with another, or with a beneficial interest by you at any brokerage firm

other than AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc. during the relevant time period. This request includes all statements or summaries of account(s) you had with any investment advisor, broker-dealer, or other person or entity who invested money on your behalf. (If you are not in possession of said documents but have maintained such accounts, please indicate the firm with which you have maintained each such account, the branch office you dealt with, the name of your broker/advisor, and the account numbers).

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 5:** All contracts, agreements, or any other documents relating to your account(s) with each such investment advisor, broker-dealer, or other period or entity who invested money on your behalf during the relevant time period.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 6:** All documents that refer or relate to your monthly and annual income from any and all sources, including but not limited to investments, pensions, employment, inheritance, legal settlements, or trusts for the period of 1998 through the present.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and

unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 7:** All documents, including but not limited to prospectuses, sales material, annual reports, quarterly reports, or other press releases, tender offers, etc. which you have received from any source that refer or relate to any of your investments with or through Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., and/or Wilbanks Securities, Inc.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenors' investments that were not part of the Purported Investment Program. Subject to these objections, Intervenors will make responsive documents related to the Purported Investment Program available for inspection and copying to the extent they exist. In addition, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 8:** All documents, including but not limited to prospectuses, sales material, annual reports, quarterly reports, or other press releases, tender offers, etc. which you have received from any source that refer or relate to any of your investments in any account(s) maintained or owned by you, individually or jointly with another, at any brokerage firm other than AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and

unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 9:** All documents reflecting Individual Retirement Accounts, Keogh Plans, pension plans, or trusts in which you were/are owner, participant, or beneficiary and/or recipient of funds, either individually or jointly with another.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 10:** To the extent not covered by previous items, all documents that refer or relate directly or indirectly, to your ownership of investments of any kind and description during the relevant time period, including but not limited to certificates of deposit, mutual funds, stocks, options, bonds, annuities, warrants, limited partnerships, gold or gold ventures, stocks, penny stocks, commodities, private or public corporations, joint ventures, or other entities.

**RESPONSE:** Intervenors object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenors' investments that were not part of the Purported Investment Program. Subject to these objections, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 11:** All writings reflecting subscriptions by you to financial publications and on-line services during the relevant time period, including, but not limited to, the Wall Street Journal, Business Week, Forbes, Money Magazine, or Barrons, from 1998 through the present.

**RESPONSE:** Intervenor object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 12:** All writings read, utilized, considered, consulted, prepared, or reviewed by you between 1998 and 2005, relating to trading or investments in securities and/or "pooled accounts," including, without limitation, all prospectuses, books, charts, research, analyses, manuals, magazines, newspaper articles, and brochures containing information regarding trading or investments in said securities and/or promotional materials or literature from companies or from general partners or from brokers, including but not limited to Marsha Schubert, AXA Advisors, L.L.C. and/or Wilbanks Securities, Inc.

**RESPONSE:** Intervenor object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 13:** All documents that evidence, refer, or relate to your ownership of or control over any business entity, including general and limited partnerships and closely held corporations.

**RESPONSE:** Intervenor object to this request on the grounds that it is overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenor will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 14:** All documents reviewed or relied upon by you in making the investment decision(s) at issue.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence to the extent it requests documents related to Intervenor's investments that were not part of the Purported Investment Program. Subject to these objections, Intervenor will make responsive documents related to the Purported Investment Program available for inspection and copying.

**REQUEST NO. 15:** All documents reflecting lawsuits or arbitrations involving securities matters in which you are or were a party.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Intervenor further object to this request on the ground that it may call for production of documents protected from disclosure by attorney-client privilege or the attorney work product doctrine. Subject to these objections, Intervenor will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 16:** All complaints by you or on your behalf involving securities matters and the responses to said complaints.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenor will make the responsive pleadings in the arbitration proceedings identified in response to

interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 17:** All claims, agreements, motions, pleadings, discovery documents, transcripts, tape recordings, correspondence, orders, exhibits, and any other documents that were obtained through and/or refer/relate to Case Number 04-07933, *In the Matter of the Arbitration Between Claimants Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust, et al., and Respondents AXA Advisors LLC and Marsha Schubert.*

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Intervenors further object to this request on the ground that it calls for the production of documents that are subject to a confidentiality agreement. Subject to these objections, Intervenors will make the transcript of the proceeding, the responsive pleadings, including the Award entered in the above-referenced case, available for inspection and copying.

**REQUEST NO. 18:** All documents that evidence, refer, or relate to your discovery of the alleged wrongdoings committed by Defendants as described by you in your Petition in Intervention. If no writings exist or are not in your possession, custody, or control, please state how and when you discovered the alleged wrongdoings.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, *see* the publicly available Report prepared by Baird, Kurtz and Dobson released by the Receiver on March 23, 2005 ("BKD Report").

**REQUEST NO. 19:** All documents sufficient to identify all persons that were involved

in each alleged sale of a security to you as part of Marsha Schubert's purported investment program.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, Intervenors will make responsive documents available for inspection and copying. In addition, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 20:** All documents relating to any formal or informal inquiries, investigations, lawsuits or regulatory actions by any state, federal, or private agency or entity concerning the following:

- (a) Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., Wilbanks Securities, Inc., BancFirst, F&M Bank, Farmers & Merchants Bancshares, Inc., or any of the Individual Defendants' compliance with federal and/or state laws and regulations;
- (b) Marsha Schubert, Schubert & Associates, AXA Advisors, L.L.C., or Wilbanks Securities, Inc.'s compliance with regulations of registered broker-dealers.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks documents that are publicly available.

**REQUEST NO. 21:** To the extent not covered by previous items, all documents concerning any alleged sale or purchase made by you relating to Marsha Schubert's purported investment program.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Intervenor further object to this request on the ground that it calls for the production of documents protected from disclosure by attorney-client privilege or the attorney work product doctrine. Subject to these objections, Intervenor will make non-privileged, relevant, responsive documents available for inspection and copying.

**REQUEST NO. 22:** All documents concerning communications or writings about this litigation, whether internal or received from or sent to any other person or entity.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Intervenor further object to this request on the ground that it calls for the production of documents protected from disclosure by attorney-client privilege or the attorney work product doctrine. Subject to these objections, Intervenor will make non-privileged, relevant, responsive documents available for inspection and copying to the extent they exist.

**REQUEST NO. 23:** All documents concerning any actual or potential violation by AXA Advisors, L.L.C., Wilbanks Securities, Inc., and/or BancFirst of any securities law or regulation relating to Schubert's purported investment program.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenor will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 24:** All documents received from or provided to any lawyer representing the Receiver, the Oklahoma Department of Securities, Marsha Schubert, Schubert & Associates,

AXA Advisors, L.L.C., BancFirst, or Wilbanks Securities, Inc. relating to the subject matter of this litigation.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 25:** All documents evidencing your investment monies being deposited by Marsha Schubert into bank accounts owned or controlled by Marsha Schubert, excluding Schubert's F&M accounts.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, *see* the BKD Report and documents made available for inspection and copying by ODS in response to Defendants' discovery requests.

**REQUEST NO. 26:** All documents reflecting the amount of monies distributed to you by the Receiver from any source.

**RESPONSE:** Intervenors will make responsive documents available for inspection and copying.

**REQUEST NO. 27:** All bank statements, cancelled checks, and any other documents reflecting your investment or payment to Marsha Schubert as part of her purported investment program.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, Intervenors will make responsive documents available for inspection and copying.

**REQUEST NO. 28:** To the extent not covered by previous items, all documents concerning or evidencing the amount(s) invested by you with Marsha Schubert, Schubert & Associates, AXA Advisors, LLC, and/or Wilbanks Securities.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence in that it requests documents related to Intervenors' investments that were not part of the Purported Investment Program. Subject to these objections, Intervenors will make non-privileged, relevant, responsive documents available for inspection and copying.

**REQUEST NO. 29:** All documents concerning or evidencing any amounts paid by Wilbanks Securities or AXA Advisors, LLC to you, including any amounts where there is a legal obligation to pay.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Intervenors further object on the grounds that any settlement with Wilbanks Securities is subject to a confidentiality provision. Subject to these objections, Intervenors will make responsive, non-confidential documents available for inspection and copying subject to the Protective Order in this case.

**REQUEST NO. 30:** All financial statements or similar statements reflecting your assets, liabilities, and/or net worth during the relevant time period.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence. Intervenors further object to this request on the ground that it calls for confidential financial information. Subject to these objections,

Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 31:** All federal and state tax returns filed on your behalf for the years 1997 through 2006.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant nor reasonably likely to lead to admissible evidence.

**REQUEST NO. 32:** All documents concerning any due diligence efforts undertaken by you, your representatives, or any other person in connection with each transaction involving Marsha Schubert's purported investment programs.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, Intervenors will make non-privileged, relevant, responsive documents available for inspection and copying. In addition, Intervenors will make the transcripts of the arbitration proceedings identified in response to interrogatory no. 19 available for inspection and copying subject to the Protective Order in this matter.

**REQUEST NO. 33:** All previously prepared written statements by persons with knowledge of the facts and circumstances related to the subject matter of this litigation, including those by accountants, tax advisors, financial planners, or other associated person(s), and any other third party.

**RESPONSE:** Intervenors object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome and seeks evidence which is neither relevant

nor reasonably likely to lead to admissible evidence. Subject to these objections, Intervenor will make non-privileged, relevant, responsive documents available for inspection and copying to the extent they exist.

**REQUEST NO. 34:** All documents showing action taken by you to limit your losses in connection with your investments with or through Marsha Schubert.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Subject to these objections, Intervenor will make non-privileged, relevant, responsive documents available for inspection and copying.

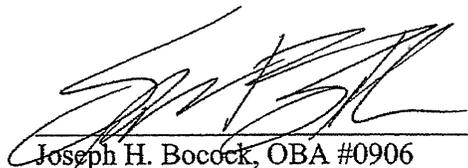
**REQUEST NO. 35:** All documents identified, reviewed, referred to, or relied upon in your answers to Defendants' interrogatories.

**RESPONSE:** Intervenor will make responsive documents available for inspection and copying.

**REQUEST NO. 36:** All documents evidencing any release, settlement, or other agreement pursuant to which the liability of any person for any injury or damage arising out of the subject matter of this litigation has been limited, reduced, or released in any manner.

**RESPONSE:** Intervenor object to this request on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. Intervenor further object on the grounds that any settlement agreement is subject to a confidentiality provision. Subject to these objections, Intervenor will make responsive documents available for inspection and copying subject to the Protective Order in this case.

Respectfully submitted this 19<sup>th</sup> day of March, 2008.



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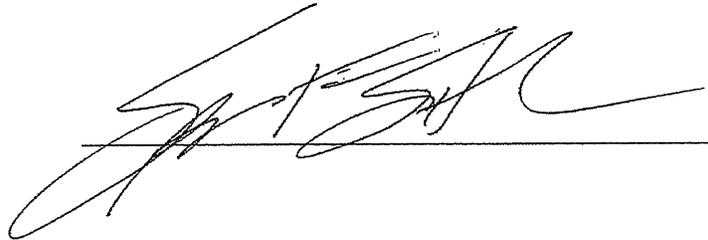
**ATTORNEYS FOR INTERVENORS**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of March, 2008, a true and correct copy of the foregoing was mailed, via U.S. First Class Mail, postage prepaid, to the following counsel of record:

Melanie Hall  
Amanda Commesser  
Gerri Stuckey  
Oklahoma Department of Securities  
120 N. Robinson Avenue, Suite 860  
Oklahoma City, OK 73102

Patrick M. Ryan  
Daniel G. Webber, Jr.  
Grant M. Lucky  
Ryan Whaley & Coldiron  
119 N. Robinson Avenue, Suite 900  
Oklahoma City, OK 73102



A handwritten signature in black ink, appearing to read "Grant M. Lucky", is written over a horizontal line. The signature is stylized and cursive.