

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

DEC 1 2008

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

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

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
v.)
)
Powder River Petroleum International,)
Inc., an Oklahoma Corporation, and)
Brian Fox, an Individual,)
)
Defendants.)

CASE NO. CJ-2008-9048

ANSWER OF DEFENDANT POWDER RIVER

Defendant, Powder River Petroleum International, Inc., by and through Bruce Day, its Court-appointed Receiver ("Powder River"), submits this Answer to the Petition for Permanent Injunction and Other Relief ("the Petition") filed by Plaintiff, Oklahoma Department of Securities ("Department"), and alleges and states:

ANSWER TO OVERVIEW

1. For answer to Paragraph 1, Plaintiff has alleged that Powder River and Brian Fox, the President and Chief Executive Officer during the relevant time frame ("Fox") sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the

duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

ANSWER TO ALLEGATIONS ABOUT DEFENDANTS

2. Based on information and belief, Powder River admits the allegations of Paragraphs 2-5.

ANSWER TO JURISDICTION AND VENUE

3. Powder River admits the allegations of paragraphs 6-9.

ANSWER TO FACTUAL ALLEGATIONS

4. Powder River realleges and incorporates by reference all allegations in previous paragraphs for answer to Paragraph 10.

5. Powder River admits the allegations of paragraph 11.

6. Powder River generally admits the scenario described in paragraph 12, but is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding the precise figures for Working Interest Investors or the total amount paid by Working Interest Owners for their investments as cited by the Department in Paragraph 12.

7. Powder River generally admits the scenario described in Paragraphs 13 through 16, but states that as President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be

due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

8. Paragraph 17 contains a conclusion of law Powder River can neither admit nor deny.

9. Based on information and belief, Powder River admits the allegations of paragraph 18.

10. Powder River admits the allegations of paragraphs 19-20.

11. For answer to Paragraphs 21 through 26, Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

12. Powder River admits the allegations of Paragraph 27.

13. For answer to Paragraph 28, Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the

duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

14. Powder River admits the allegations of Paragraphs 29 through 32.

**ANSWER TO FIRST CLAIM: Violation of Section 1-501 of the Act:
Untrue Statements of Material Fact in Connection
with Offer, Sale or Purchase of Securities**

15. For answer to paragraph 33, Powder River realleges and incorporates by reference all proceeding Paragraphs.

16. For answer to Paragraphs 34 through 36, Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

**ANSWER TO SECOND CLAIM: Violation of Section 1-501 of the Act:
Employing a Device, Scheme, or Artifice to Defraud**

17. For answer to Paragraph 37, Powder River realleges and incorporates by reference all proceeding Paragraphs.

18. For answer to Paragraphs 38 through 39, Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had

fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

**ANSWER TO THIRD CLAIM: Violation Of Section 1-501 Of The Act:
Engaging in any Act, Practice, or Course of Business Which Operates
or Would Operate as a Fraud or Deceit upon any Person**

19. For answer to Paragraph 40, Powder River realleges and incorporates by reference all proceeding Paragraphs.

20. For answer to Paragraphs 41 through 42, Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

AFFIRMATIVE DEFENSES

21. The Petition fails to state a claim for relief against Powder River.

22. Following a hearing on July 14, 2008, Bruce W. Day was appointed by J. Michael Gassett, District Judge of Tulsa County, Oklahoma to act as the Receiver for

Powder River and its affiliated entities. The purpose of this Receivership is to administer and manage the business affairs of Powder River and to marshal and safeguard its assets. The Receiver has been proceeding with the directives of Judge Gassett. Consequently, the goals of the Department's Petition for Permanent Injunction have already been achieved to a great extent and no injunctive relief is required against Powder River.

23. Plaintiff has alleged that Powder River and Fox sold securities by means of material misrepresentations and other violations of the Oklahoma Securities Act. As President of Powder River, Fox had fiduciary duties and obligations to the Company to conduct business and interact with shareholders in a fair and honest manner. If the Department proves the violations it alleges, it would only be due to the actions of Fox. Any improper or illegal actions of Fox were *ultra vires* the duties of Fox to Powder River and his obligations to the Company, and Powder River cannot be held responsible for such actions.

ANSWER TO PRAYER FOR RELIEF

24. For answer to all Paragraphs of the Departments Prayer for Relief, following a hearing on July 14, 2008, Bruce W. Day was appointed by J. Michael Gassett, District Judge of Tulsa County, Oklahoma to act as the Receiver for Powder River and its affiliated entities. The purpose of this Receivership is to administer and manage the business affairs of Powder River and to marshal and safeguard its assets. The Receiver has been proceeding with the directives of Judge Gassett. Consequently, the goals of the Department's Petition for Permanent Injunction have already been

achieved to a great extent and no injunctive relief is required against Powder River.

25. WHEREFORE, Powder River requests that the Department's claims against it be dismissed and that it be awarded its costs, attorney's fees and such other relief as the Court deems proper.

Respectfully Submitted,



Bruce W. Day, OBA #2132

Tara A. LaClair, OBA #21903

Kelley C. Callahan, OBA#1429

Day, Edwards, Propester & Christensen, P.C.

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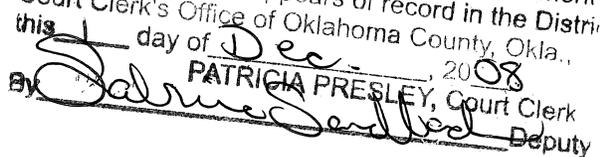
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Oklahoma City, OK 73102

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(405) 236-1012 (facsimile)

**ATTORNEYS FOR DEFENDANT POWDER
RIVER INTERNATIONAL, INC.**

I, PATRICIA PRESLEY, Court Clerk for Oklahoma
County, Okla., hereby certify that the foregoing is
true, correct and complete copy of the instrument
herewith set out as appears of record in the District
Court Clerk's Office of Oklahoma County, Okla.,
this 1 day of Dec, 2008
By  PATRICIA PRESLEY, Court Clerk
Deputy

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was mailed via United States mail this 15th day of December, 2008 to:

Terra Shamas Bonnell, OBA #20838
Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson Avenue, Suite 860
Oklahoma City, Oklahoma 73102
**ATTORNEY FOR PLAINTIFF OKLAHOMA
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ATTORNEYS FOR DEFENDANT, BRIAN FOX


Kelley G. Callahan