

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FEB 25 2010

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
DEPUTY

OKLAHOMA DEPARTMENT OF SECURITIES )  
*ex rel.* IRVING L. FAUGHT, Administrator, )  
 )  
Plaintiffs, )  
v. )  
 )  
THE ESTATE OF BRYAN DAVID ROARK, )  
 )  
Defendants. )

Case No. CJ-2009-10905

**ORDER ESTABLISHING PROCEDURE TO NOTIFY CLAIMANTS AND CREDITORS  
TO MAKE CLAIMS AND SETTING BAR DATE FOR  
SUBMITTING PROOFS OF CLAIM**

On the 19th day of February, 2010, the above-captioned case comes on to be heard in its regular order upon the Receiver's Application for the court to establish a procedure to notify claimants to make claims. The Receiver appears by his counsel of record, Bradley E. Davenport of Gungoll, Jackson, Collins, Box & Devoll, P.C. The Plaintiff, Oklahoma Department of Securities, appears by its counsel of record, Jennifer Shaw and Amanda Cornmesser. The Intervenor appears by their counsel of record, Clell I. Cunningham, III, of Dunn, Swan & Cunningham, P.C.

Based upon the Receiver's Application and the court having reviewed all pleadings and submissions of the parties, the Court finds that the Receiver shall give notice to all creditors and claimants of Bryan David Roark and/or his estate at their last-known address, requiring each of them to file a proof of claim setting forth the nature and amount of their claims against Bryan David Roark and/or his estate, together with all supporting documentation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Receiver shall give notice to the creditors and claimants of Bryan David Roark and/or his estate

in the form attached to this Order as Exhibit "A" and incorporated herein by reference, and said Notice to be given in the manner set forth below.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that all creditors and claimants of Bryan David Roark and/or his estate are required to file a proof of claim with the Receiver that is delivered on or before May 7, 2010, or the claim will be forever barred.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Notice to Creditors of Bryan David Roark and/or his estate shall be published at least once a week for two consecutive weeks in a newspaper with general circulation in Pontotoc County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver shall mail a copy of such Notice, by regular mail and certified mail, to each known creditor and/or claimant of Bryan David Roark and/or his estate at their last-known address.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the proof of claim form and proof of claim instructions attached to this Order as Exhibit "B" and incorporated herein by reference is approved by the Court, and the Receiver is authorized by the Court to provide the proof of claim form and proof of claim instructions to all known creditors along with the Notice described above in this Order.

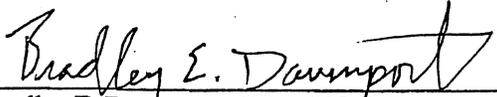
IN WITNESS WHEREOF I HAVE SET MY HAND AND AFFIXED THE SEAL OF THIS COURT THE 24<sup>th</sup> Day of February, 2010.

  
Honorable Twyla Mason Gray  
Judge of the District Court

PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is a 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 25 day of Feb, 2010

PATRICIA PRESLEY, Court Clerk  
By  Deputy

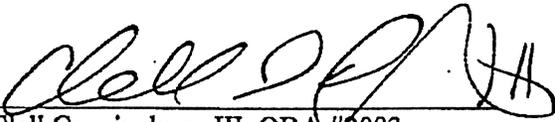
APPROVED AS TO FORM:



Bradley E. Davenport, OBA #18687  
GUNGOLL, JACKSON, COLLINS, BOX & DEVOLL, P.C.  
3030 Chase Tower  
100 N. Broadway Avenue  
Oklahoma City, OK 73102  
Ph. (405) 272-4710 / Fax (405) 272-5141  
Attorney for Receiver, Douglas L. Jackson



Jennifer Shaw, OBA #20839  
Amanda Cormesser, OBA#20044  
Oklahoma Department of Securities  
120 N. Robinson, Suite 860  
Oklahoma City, OK 73102  
Attorneys for Plaintiff, Oklahoma Department of Securities



Clell Cunningham, III, OBA #2093  
Dunn, Swan & Cunningham P.C.  
210 Park Avenue  
Suite 2800  
Oklahoma City, OK 73102  
Attorney for Intervenors

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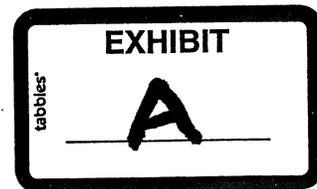
Case No. CJ-2009-10905

**NOTICE TO CREDITORS AND CLAIMANTS AND**  
**DEADLINE TO FILE PROOF OF CLAIM**

TO ALL CLAIMANTS AND CREDITORS HAVING A CLAIM AGAINST THE RECEIVERSHIP FOR ASSETS OF THE ESTATE OF BRYAN DAVID ROARK. PLEASE REVIEW THIS NOTICE CAREFULLY, AS IT SETS OUT IMPORTANT INFORMATION CONCERNING YOUR RIGHTS AND RESPONSIBILITIES AS A POTENTIAL CLAIMANT OR CREDITOR.

Please take note that on February 19, 2010, the Oklahoma County District Court, Judge Twyla Mason Gray presiding, entered an Order establishing a procedure to notify creditors and claimants to make claims and ordering the Receiver to mail a copy of such notice, by regular and certified mail, to each known creditor and claimant of Bryan David Roark and/or his estate at their last-known address.

The records of Bryan David Roark and/or Morgan Stanley in the possession of the Receiver indicate that you may have a claim against or be a creditor of the Receivership for the Assets of the Estate of Bryan David Roark. Enclosed please find your proof of claim form(s) and instructions for completing and returning the form(s). **Please read the instructions carefully and completely fill out your form(s). Failure to fully complete the form(s) and**



submit all of the requested information, including documents or other materials supporting your claim, will result in your claim being denied. Note: if you are receiving this Notice by publication, please contact the phone number indicated below to obtain a proof of claim form.

THE DEADLINE FOR SUBMITTING YOUR PROOF OF CLAIM IS MAY 7, 2010. If you wish to have an opportunity to share in the distribution of the available liquidated assets of the Roark receivership estate, your proof of claim form(s) must be delivered to the address indicated below by MAY 7, 2010. Proof of claim form(s) delivered and/or received after May 7, 2010, will lose their statutory priority and will likely receive no distribution of assets due to the present financial deficiency of the Roark receivership estate.

Proof of claim forms, questions and other requests for information should be submitted to the Receiver's attorney:

Bradley E. Davenport  
Gungoll, Jackson, Collins, Box & Devoll PC  
3030 Chase Tower  
100 N. Broadway Avenue  
Oklahoma City, OK 73102  
(405) 272-4710

BY ORDER OF THE COURT.

Douglas L. Jackson, Receiver for  
the Assets of the Estate of Bryan David Roark

**CERTIFICATE OF SERVICE**

I do hereby certify that on this \_\_\_\_\_ day of February, 2010, I mailed a true and correct copy of the above and foregoing document by placing same in the United States mails, postage prepaid, to:

Jennifer Shaw  
Amanda Cornmesser  
Oklahoma Department of Securities  
120 N. Robinson, Suite 860  
Oklahoma City, OK 73102  
Attorneys for Plaintiff

Clell I. Cunningham, III  
Dunn, Swan & Cunningham, P.C.  
210 Park Avenue  
Suite 2800  
Oklahoma City, OK 73102  
Attorney for Intervenors

Patrick M. Ryan, OBA #7864  
Ryan, Whaley, Coldiron, Shandy  
900 Robinson Renaissance  
119 N. Robinson  
Oklahoma City, OK 73102  
Attorney for Interested Party,  
Morgan Stanley Smith Barney

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Bradley E. Davenport



## PROOF OF CLAIM INSTRUCTIONS

### General

1. The Proof of Claim must be typed or legibly printed in ink.
2. The Proof of Claim must have all items completed and questions answered. Your Proof of Claim will be returned to you if any items are left blank. Please review the entire form for completion prior to mailing.
3. If you need additional space to fully answer any questions, please do so on a separate sheet of paper and attach to your Proof of Claim.
4. You must attach to the Proof of Claim documents or evidence supporting your claim. FAILURE TO PROVIDE SUFFICIENT DOCUMENTS OR EVIDENCE SUPPORTING YOUR CLAIM IS GROUNDS FOR DENIAL THEREOF. See ¶24 below for a non-exhaustive list of examples of the type of documents and supporting evidence required.
5. If you assert your claim is secured by any assets or property of the Estate of Bryan David Roark, you must attach all documents evidencing your security interest.
6. You have an ongoing duty to supplement your Proof of Claim with supporting documentation as additional information is received. This requirement includes notice of any change of address.
7. The Proof of Claim must be signed by the Claimant who is named in Part I(a), or by a representative of the Claimant who has knowledge of the matters set forth in the Proof of Claim and in any accompanying statement and supporting documents.
8. If you are a lien holder or an assignee of the Claimant's rights to distribution from the Receivership, you should complete a Proof of Claim and have the Claimant execute an unconditional assignment and deliver same to the address reflected in paragraph 14 below.
9. All Proof of Claims must be sworn to before a Notary Public or person authorized to administer oaths.
10. All Proofs of Claim must be received no later than May 7, 2010. The Receiver is not responsible for undelivered mail. To protect your claim, the Receiver recommends that you send your Proof of Claim by certified and/or registered mail.
11. The Receiver suggests you keep a copy of the completed Proof of Claim, including supporting documents, for your records.
12. All future correspondence, amendments, or other attachments must include reference to the Estate of Bryan David Roark, Claimant's name, address, and social security number or federal tax identification to insure proper identification.

13. The Receiver will not accept a Proof of Claim that is filed out of time. Rather, any Claimant who does not file a Proof of Claim with the Receiver before the bar date established by the court should file an application with the court explaining why they did not file a Proof of Claim in the time allowed and seek permission from the court to file a Proof of Claim out of time.
14. Mail your completed Proof of Claim and supporting documentation to: Bradley E. Davenport, Attorney for Receiver, 3030 Chase Tower, 100 N. Broadway Ave., Oklahoma City, OK 73102. Facsimiles of Proof of Claim and supporting documentation will not be accepted.
15. If you have any questions about the Proof of Claim procedure, you may call Bradley Davenport at (405) 272-4710.

#### Part 1

16. In Part 1(a), state the name and address of the party completing the Proof of Claim
17. If Part 1(a) has been pre-filled by the Receiver, indicate any address or name changes/corrections in part 1(b).
18. List the social security number or federal tax identification and telephone numbers for the Claimant in Part 1 (c).
19. If the Claimant is represented by an attorney, you must state the attorney's name, address and telephone number in Part 1(d).

#### Part 2

20. In Part 2(a), indicate who the claim is against. Please note that you are required to provide documentation in support of your claim. As such, you should not check boxes indicating you have claims against more than one of the listed individuals or business entities unless you have documents to support such a claim. Furthermore, neither your claim nor your chances of recovery upon your claim will in any way be increased by selecting more than one or all of the listed individuals and/or business entities in Part 2(a).
21. Indicate the type of claim you are submitting in Part 2(b). If your claim does not fit any one of the four specific categories provided, please check the block beside "Other, please specify," and type or legibly print the type or category, which you believe best describes your claim.
22. You must indicate the total amount that you believe is due to you. If your claim is contingent (i.e., uncertain or dependant on some future event) or unliquidated (i.e., not yet determined or calculated), indicate the amount of claim as "undetermined".

23. In part 2(d), you should indicate in narrative form the nature and basis of your claim. You may prefer to type or print this answer on a separate sheet of paper and attach it to your Proof of Claim form.

### Part 3

24. If you invested with or paid money to Bryan David Roark as referenced in Part 3(a), you **MUST** provide supporting documentation in the form of canceled checks, cash receipts, copies of cashier's check, wire transfer documentation, and/or monthly or quarterly statements regarding the investment. The receiver will not accept verbal representations or self-prepared lists unaccompanied by supporting documentation. FAILURE TO PROVIDE SUFFICIENT DOCUMENTS OR EVIDENCE SUPPORTING YOUR CLAIM IS GROUNDS FOR DENIAL THEREOF.
25. With respect to Part 3(b), if you answer "Yes," you **MUST** provide supporting documentation to the Receiver along with your Proof of Claim in the nature of canceled checks, copies of deposit items from your bank, copies of cashier's checks, wire transfer documentation, and/or bank statements, etc. The Receiver will not accept verbal representations or self-prepared lists unaccompanied by supporting documentation. FAILURE TO PROVIDE SUFFICIENT DOCUMENTS OR EVIDENCE OF MONEY BRYAN ROARK, THE ESTATE OF BRYAN DAVID ROARK, ROSE CREEK INVESTMENTS, OR MORGAN STANLEY PAID TO YOU IS GROUNDS FOR DENIAL OF YOUR CLAIM.
26. If you answer Part 3(c) with a "yes," you **MUST** provide the Receiver with supporting documentation along with your Proof of Claim form showing money BRYAN ROARK, THE ESTATE OF BRYAN DAVID ROARK, ROSE CREEK INVESTMENTS, OR MORGAN STANLEY had paid to a bank, credit card company, mortgage company, brokerage company or anyone else on your behalf or for your benefit. The supporting documentation should be comprised of documents, including but not limited to, canceled checks, copies of deposit items, copies of cashier's checks, wire transfer documentation, copies of bank and/or investment account statements, etc. The Receiver will not accept verbal representations or self-prepared lists unaccompanied by supporting documentation. FAILURE TO PROVIDE SUFFICIENT DOCUMENTS OR EVIDENCE SHOWING MONEY BRYAN ROARK, THE ESTATE OF BRYAN DAVID ROARK, ROSE CREEK INVESTMENTS, OR MORGAN STANLEY HAS PAID ON YOUR BEHALF OR FOR YOUR BENEFIT IS GROUNDS FOR DENIAL OF YOUR CLAIM.
27. If you answer the question in Part 3(d) with "Yes," identify the name on the account (i.e. John Doe or John Smith Living Trust), the type of account (i.e. Morgan Stanley, etc.); and account number for each of your accounts from which you claim Bryan David Roark wrongfully withdrew money. You should provide supporting documentation to the Receiver along with your proof of Claim form such as monthly or quarterly statements on your investment accounts, and any other supporting documents and/or statements to verify that Bryan David Roark wrongfully withdrew money from those accounts.

28. If you have received any payments from any source relating to your claim, you must identify the source and amount of such payments in Part 3(e).
29. If you owe Bryan David Roark, his estate, Rose Creek Investments and/or Morgan Stanley any money, whether it is related to this claim or not you must identify the amount and the reason in Part 3(f).
30. If your claim is the subject of legal action, you must specify the court, case number, parties and the attorneys representing the parties in Part 3(h).
31. If all or any portion of your claim is contingent or unliquidated (for example the existence of your claim is disputed or the amount of your claim cannot presently be determined), you must answer "yes" to the first portion of Part 3(i) and provide a brief explanation of why your claim is contingent or unliquidated in any respect.

#### Affirmation

32. You must insert the total amount of your claim as indicated in Part 2(c) in the Affirmation. If your claim is contingent or unliquidated, indicate the amount of claim as "undetermined" in the Affirmation.
33. You are signing the Proof of Claim under penalty of perjury. Please read both the Proof of Claim form and the Affirmation carefully before signing the Affirmation before a Notary Public.

#### Allowance Procedures

34. Within such period as the court must establish, the Receiver will prepare and file a report setting forth the Claimants, amount of claims, and Receiver's recommendation with respect to each claim.
35. Upon the filing of such report, the court will schedule a time for a hearing on the report. If you file a Proof of Claim, you will receive notice of the hearing and such other information concerning the report and hearing as the court deems appropriate under the circumstances. In addition to such other information which may be provided, if, for any reason, the Receiver does not recommend acceptance of a claim as filed by the Claimant, such Claimant will be advised of the Receiver's recommendation regarding such claim.
36. The court will make the final determination as to whether claims are allowed or disallowed. Once the Receiver has recovered all of the money and assets on behalf of the Roark Receivership Estate that he believes can be recovered, the Receiver will seek court approval to begin making distribution to the Claimants, as approved by the court, from the assets of the Receivership Estate. Please note that while the claim process will occur over the next few months, any distribution to Claimants from the Receivership assets will not likely occur until a much later time.