

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA
LOGAN COUNTY SS
FILED FOR RECORD

2005 NOV -9 PM 4: 26

REJEANIA ZINCK
COURT CLERK

BY _____ DEPUTY

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)

Plaintiff,)

v.)

Case No. CJ 2004-256

Marsha Schubert, an individual and)
dba Schubert and Associates;)
Richard L. Schubert, an individual and)
dba Schubert and Associates; and)
Schubert and Associates,)
an unincorporated association,)

Defendants.)

HEARING SET FOR
DECEMBER 9, 2005, at 1:30 p.m.

PLAINTIFF'S MOTION TO AMEND ORDER APPOINTING RECEIVER

Plaintiff, the Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator (Plaintiff), respectfully requests that the *Order Appointing Receiver* issued on October 14, 2004, as modified by the *Order Amending Authority of Receiver* issued on December 10, 2004, be further modified as described below to clarify the intent of the Court.

On October 14, 2004, Plaintiff filed a *Petition for Permanent Injunction and Other Equitable Relief* (Petition) and an *Application for a Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets, and Order for Accounting*, pursuant to Section 1-603 of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003). This Court issued a *Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets, and Order for Accounting* against Marsha Schubert, Richard Schubert, and Schubert and Associates.

On November 15, 2004, a permanent injunction was entered against Defendants Marsha Schubert and Schubert and Associates (Enforcement Action Defendants). The permanent injunction enjoins Marsha Schubert and Schubert and Associates from offering and selling securities and transacting business as a broker-dealer or agent in and/or from Oklahoma and provides for the continuation of the asset freeze and the receivership pending determination of the amount of restitution owed.

After a preliminary investigation of the bank accounts used by Marsha Schubert and Schubert and Associates, the Department and the Receiver determined that the Enforcement Action Defendants had operated a "Ponzi" investment scheme (Schubert Investment Program) wherein they made payments to participants, purportedly generated from investment activities, when in actuality the source of such payments was other participants. As a result, three distinct classes of participants in the "Ponzi" scheme were identified: 1) participants in the Schubert Investment Program who suffered net investment losses (Short Participants); 2) participants in the Schubert Investment Program who were unjustly enriched through the transfers of assets directly traceable to the proceeds of the fraudulent scheme, when such transfers were not supported by adequate consideration (Long Participants); and 3) persons who did not contribute any amount of money to the Schubert Investment Program, yet received assets traceable to the proceeds of the fraudulent scheme (Non-Participants). It became apparent that the only significant recovery for the Short Participants would have to come from those to whom the assets were wrongfully given – the Non-Participants and the Long Participants.

Therefore, the Department requested that this Court modify the *Order Appointing Receiver* to grant the Receiver authority to seek recovery of those assets. On December 10, 2004, this Court issued the *Order Amending Authority of Receiver* providing that the Receiver be

appointed to act for the investors and creditors of Schubert and Associates; to institute actions to recover assets, to include assets directly traceable as proceeds of the Enforcement Action Defendants' fraudulent investment scheme; and to promote equity and a fair distribution among the participants of the Schubert Investment Program.

Some participants have argued that the language of the *Order Amending Authority of Receiver* grants the Receiver authority over the assets of the investors and creditors and usurps individual rights of the participants in the Schubert Investment Program. However, the Department did not intend for the Receiver to take title to or possession over the assets of the participants in the Schubert Investment Program. Rather, the Department intended that the Receiver have the power to effect a fair, efficient and economical recovery for distribution to the Short Participants and other creditors.

In a hearing on August 12, 2005, this Court ordered that the *Order Amending Authority of Receiver* be modified to clarify the application and scope of the Receiver's authority in this matter. The Court stated that "the Receiver is appointed for the Schubert entities and to conduct such conduct and affairs that are appropriate in protecting and solidifying the interests of the Schubert entities and those persons interested and affected by those entities." See Exhibit 1: Transcript of hearing August 12, 2005, p. 13, lines 16-21. The Department reasserts its previous motion filed on August 12, 2005, and hereby requests that the December 10, 2004, *Order Amending Authority of Receiver* be amended as reflected in Exhibit 2 hereto.

It is within the discretionary authority of this Court to issue such an order. The Oklahoma Supreme Court has held that "the appointment of a receiver *pendente lite* is to a considerable extent addressed to the sound discretion of the court to which the application is made, to be governed by the consideration of the entire circumstances of the case." *Wagoner Oil*

& *Gas Co. v. Marlow*, 1929 OK 150, 278 P. 294. Section 1-603(b) of the Act provides that a district court may order appropriate or ancillary relief such as the appointment of a receiver and such other relief as the court considers appropriate. This language gives the Court wide latitude to fashion relief, specific to the matter before the Court, that will effectively further the goals of the Oklahoma securities laws.

The court in *Wuliger v. Anstaett*, 363 F. Supp 2nd 917, 919-920 (N.D. Ohio 2005), approved the trial court's express grant of authorization to a receiver to recover assets for damages arising out of claims by investors. The *Wuliger* court said that:

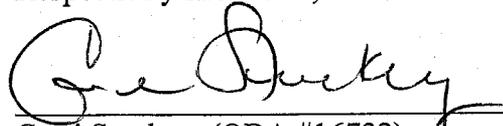
It is generally recognized that a receiver may bring suit to "accomplish the objective of the suit for which he [sic] or her appointment was made, or under the specific directions of the appointing court, or pursuant to his general duties to receive, control, and manage the receivership property." 12 Wright, Miller & Marcus, Federal Practice and Procedure § 2984 (2d ed. 1997). See also, *Javitch v. First Union Securities, Inc.*, 315 F.3d 619, 626 (6th Cir. 2003) ("question depends on the authority granted by the appointing court and actually exercised by the receiver"); 64 Am.Jur.2d Receivers § 129 (2d ed) (powers of a receiver flow from statute, court rules, orders of appointment and subsequent orders of appointing court).

By specifically authorizing the Receiver to institute actions against participants in the Schubert Investment Program, as receiver for the creditors of Marsha Schubert and Schubert and Associates, this Court has fashioned effective relief -- the only relief that will result in a fair, efficient and economical resolution of this matter. The Court's actions in establishing the specific powers of the Receiver in this case are bolstered by federal cases in which a receiver was appointed to seek disgorgement of monies received by investors in excess of the amounts of their actual investments. See *Wing ex rel. 4NExchange, L.L.C. v. Yager*, 2003 WL 23354487 (D. Utah 2003); *Chosnek v. Rolley*, 688 N.E.2d 202 (Ind. App. 1997); *Scholes v. Ames*, 850 F. Supp. 707 (N.D. Ill. 1994); *Merrill v. Abbott (In re Independent Clearing House Co.)*, 77 B.R. 843, 858

(D. Utah 1987); and *Sender v. Buchanan (In re Hedged-Investments Associates, Inc)*, 84 F.3d 1286 (C.A 10 (Colo.) 1996).

In light of the facts presented and to ensure the equitable administration of the receivership, Plaintiff respectfully requests that this Court amend the *Order Appointing Receiver* as modified on December 10, 2004 in the *Order Amending Authority of Receiver*, as reflected in Exhibit 1 hereto.

Respectfully submitted,



Gerri Stuckey, (OBA #16732)
Amanda Cornmesser, (OBA # 20044)
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
Telephone (405) 280-7700
Fax (405) 280-7742

CERTIFICATE OF MAILING

The undersigned certifies that on the 10th day of November, 2005, a true and correct copy of the foregoing was mailed via First Class Mail, postage prepaid, to the following:

Mack Martin
Martin Law Office
119 N. Robinson, Suite 360
Oklahoma City, OK 73102

William J. Baker
Hert, Baker & Koemel, P.C.
P.O. Box 668
Stillwater, OK 74076

Bradley E. Davenport
Gungoll, Jackson, Collins, Box & Devoll, P.C.
P.O. Box 1549
Enid, OK 73702

Charles Meyers
816 South Main
Stillwater, OK 74074


Amanda Cornmesser

Additionally, on the 10th day of November, 2005, a true and correct copy of the foregoing was mailed via First Class Mail, postage prepaid, to the following:

Brett Agee
Garvin, Agee, Carlton & Mashburn
P.O. Box 10
101 E. Grant Avenue
Pauls Valley, OK 73075

Alexander Bednar
P.O. Box 3021
Oklahoma City, OK 73101

Timothy R. Beebe
Attorney at Law
323 W. Cherokee
Enid, OK 73701

G. David Bryant
Lisa M. Mueggenborg
Kline, Kline, Elliot & Bryant
720 NE 63rd Street
Oklahoma City, OK 73105

Frank W. Davis
115 N. Division
Guthrie, OK 73044

Ronald D. Fulkerson
Shawn D. Fulkerson
Carolie E. Rozell
Fulkerson & Fulkerson, P.C.
10444 Greenbriar Place
Oklahoma City, OK 73159

Donald C. Fuller
Ryan P. DeArman
7008 NW 63rd, Suite 100
Bethany, OK 73008

Donald Hall
11120 Stratford Drive, #112
Oklahoma City, OK 73120-7240

Rodney J. Heggy
William B. Federman
Federman & Sherwood
First National Center, Suite 2720
120 N. Robinson
Oklahoma City, OK 73120

Dennis W. Hladik
302 N. Independence, Suite 300
Enid, OK 73701

Tim and Julia Jackson
3513 Elizabeth Street
Choctaw, OK 73020-8595

Terry D. Kordeliski, II
Riggs, Abney, Neal, Turpen,
Orbison & Lewis
Paragon Building, Suite 101
5801 Broadway Extension
Oklahoma City, OK 73118-7489

Harold Logsdon
Baker, Logsdon, Schulte & Gibson
302 N. Main Street
Kingfisher, OK 73750

Michael Malloy
723 S. 3rd
Kingfisher, OK 73750

Jack Mattingly, Sr.
P.O. Box 70
215 E. Oak
Seminole, OK 74818-0070

Melvin L. McDaniel
100 N. Broadway, Suite 3120
Oklahoma City, OK 73102

Denise Meloy
Rt. 3, Box 146
Hennessey, OK 73742

Jim B. Miller, Attorney
118 E. Carl Albert Parkway
McAlester, OK 74501

E. Edd Pritchett
Pritchett & Snyder
114 N. Main Street, Suite 101
Kingfisher, OK 73750

Garrett Lee Schubert
1112 Emma Lane
Stillwater, OK 74074

Hillary Schubert
723 S. Third
Medford, OK 73759-3704

R. Brandon Schubert
833 Ethan Lane
Yukon, OK 73099

Mark Stonecipher
Fellers, Snider, Blankenship, Bailey
& Tippens, P.C.
Bank One Tower, Suite 1700
100 N. Broadway
Oklahoma City, OK 73102-7875

Richard E. Stout
Cynthia K. Stout
3200 E. Memorial Road
Suite 300
Edmond, OK 73013

Jeffrey C. Trent
915 W. Main
Yukon, OK 73099

Gayle Venable
Rt. 1, P.O. Box 129
Anadarko, OK 73005

Cecil R. Williams
301 S. Maple
Crescent, OK 73028

Wilma Moore
716 NW 161st Street
Edmond, OK 73013

Gary (Bud) and Regina Grabow
P.O. Box 234
Kingfisher, OK 73750-0234

Vincent Scott
Rt. 1, Box 148A
Sayre, OK 73662

Ted and Jeanne Allen
1312 Locust Lane
Edmond, OK 73013

Brent Bell, DO
10608 Regent Street
Oklahoma City, OK 73162

Blair Minerals Ltd., LLC
P.O. Box 1213
Kingfisher, OK 73750

Craig Blair
8438 Northview Pass
Fair Oaks Ranch, TX 78015

James Blair
P.O. Box 721489
Oklahoma City, OK 73172

Kenneth Boren
1023 E. Iliff
Superior, CO 80027

Larry Boren
2001 Hughes Street
Midland, TX 79705-8333

Keith Dillingham
725 W. Nagel
Enid, OK 73701

Tommy Edgar
Rt. 2, Box 25
Kingfisher, OK 73750

Glenna Kay Floyd

Steve and Erika Ford

John E. Hall

102 Sandra Palmer
Stephenville, TX 76401

112 N. Broadway
Crescent, OK 73028

7519 S. Jackson Street
Littleton, CO 80122

Pamela Halverson
P.O. Box 1333
Russellville, AR 72811

Curtis E. and Opal R. Ham
323 S. Oak Avenue
Hennessey, OK 73742

Don Hardesty
320 E. Grand Teton Court
Yukon, OK 73099

Stuart and Helen L. Hedrick
Rt. 1, Box 12
Crescent, OK 73028

Kurt and Debra Henderson
RR 2, Box 188-K
Kingfisher, OK 73750

Michael Henthorn
8121 NW 7th Street
Oklahoma City, OK 73127

Phyllis Hinckley
1832 Redland Drive
Edmond, OK 73003

Richard and Jo Ann Holthus
Rt. 1, Box 108-RH
Dover, OK 73734

Paul E. Jackson
3646 N. Harper Road
Choctaw, OK 73020

Randall and Lori James
1800 N. Santa Fe
Guthrie, OK 73044

Doug and Kim Jech
920 W. Overstreet
Kingfisher, OK 73750-4323

Linda Kinsey
P.O. Box 701
Kingfisher, OK 73750

Randy Kretchmar
P.O. Box 8
Medford, OK 73759

Bob and Joyce Ledbetter
7163 Road 132
Holdenville, OK 74848

Charles and Joyce Liebl
Rt. 1, Box 129, Lot 2
Kingfisher, OK 73750-9751

Curtis and Cherry Meloy
P.O. Box 92
Hennessey, OK 73742

James and Ima Jean Phillips
200 Sooner Road
Holdenville, OK 74848-4202

Loren and Majorie Pollard
RR 1, Box 105
Dover, OK 73734

C.E. and Joyce Pryor
Route 1, Box 186-A
Hennessey, OK 73742

Richard and Annenda Reynolds
P.O. Box 553
Kingfisher, OK 73750-0553

Harold D. and Jo Ann Richards
P.O. Box 93
Mulhall, OK 73063

Steven B. and Vicki Sanders
1021 S. 8th Street
Kingfisher, OK 73750

David Carl Sanders
Rt. 6, 2000 Bell Road
McAlester, OK 74501

Bennie L. Schnorr
Rt. 1, Box 133-S
Kingfisher, OK 73750

Debbie Schultz
P.O. Box 503
Pond Creek, OK 73766

Gary and Beverly Shelite
P.O. Box 776
Hennessey, OK 73742

Lloyd Shelley
7433 Baker Drive
The Colony, TX 75056-1871

Ruby H. Smith
325 W. 1st Street
Edmond, OK 73003

Robert Talley
3609 Sussex Place
Norman, OK 73072

Linda Ward
2304 SW 93rd
Oklahoma City, OK 73159

Larry & Linda Wilcox
Route 1, Box 51-A
Dover, OK 73734

Marion Wilcox
Route 1, Box 47
Dover, OK 73734

Muscle Car Restorations
Attn: John Balow
11371 20th Ave.
Chippewa Falls, WI 54729

Farmers & Merchants Bank
116 S. Grand
Crescent, OK 73028

Collins Cattle Company
P. O. Box 82776
Oklahoma City, OK 73148

Geneva Yenser, Personal Rep of
Estate of Imogene Pennington
302 N. Main St.
Kingfisher, OK 73750

Wilbanks Securities
4334 NW Expressway, Suite 222
Oklahoma City, OK 73116

BancFirst
P. O. Box 419
Kingfisher, OK 73750-0419

AXA Advisors, LLC
3030 NW Expressway, Suite 121
Oklahoma City, OK 73112

Jim York
York & Associates
1015 Arlington
Ada, OK 74820

Richard Hedrick, Jr. for
Richard Hedrick, Sr.
Route 1, Box 12C.
Crescent, OK 73028

Crandall & Sanders, Inc.
Steven Sanders, President
110 N. Main St
Kingfisher, OK 73750

Jason & Jennie Elmore
Route 2, Box G-2
Waukomis, OK 73773

Joel & Lisa Harris
Route 1, Box 1660
Washburn, MO 65772

Mark & Steffani Richards
Route 1, Box 142-5
Orlando, OK 73073

Larry and Karen Williams
P.O. Box 581
Waukomis, OK 73773

Wanda and Merle Houck
RR 2, Box 249
Crescent, OK 73028

Steven and Joy Sanders
1021 S. 8th
Kingfisher, OK 73750

Terry Wallace and Terry Langley
P.O. Box 82
Kingfisher, OK 73750

Geneva Yenser
P.O. Box 1035
Crescent, OK 73028

Larry and Patricia Triplett
6408 Plum Thicket Road
Oklahoma City, OK 73162-3438

Jackson T. Walker
3725 NW 6th
Newcastle, OK 73065

Bobby and Kathleen Walker
3705 NW 6th
Newcastle, OK 73065

Jack H. Walker
3714 NW 6th
Newcastle, OK 73065

Ricky A. Walker
3714 NW 6th
Newcastle, OK 73065

Corene Abernathy
P.O. Box 224
Crescent, OK 73028

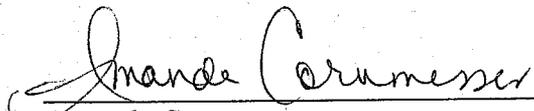
Shirley Broughton
P.O. Box 324
Hennessey, OK 73742

Gloria G. Maloy
4411 NW 16th
Oklahoma City, OK 73107

Rebecca Joy Doiron
P.O. Box 685
Crescent, OK 73028

Winning Streak Sports, Ltd.
9825 Widmer
Lenexa, KS 66215

David Blevins
Route 2, Box 480
Crescent, OK 73028


Amanda Cornmesser

Copy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF)
SECURITIES, ex rel. Irving Faught)
Administrator)
)
Plaintiff,)
)
MARSHA SCHUBERT, an)
Individual, and dba SCHUBERT AND)
ASSOCIATES, et al.)
)
Defendants.)

Case No. CJ-2004-256

T R A N S C R I P T
of
P R O C E E D I N G S

had on the 12th day of August, 2005,
Before the Honorable Donald L. Worthington,
District Judge

REPORTED BY:

Joseph L. Welch, CSR/RPR
301 Payne County Courthouse
Stillwater, Oklahoma 74074
(405) 372-3999

COPY

1 Is do we have a proper Receiver that can come and take monies
2 from my client in Oklahoma County. That's why we are here.

3 THE COURT: All right.

4 MS. CORNMESSER: May I respond to just one thing,
5 Your Honor?

6 THE COURT: All right.

7 MR. CORNMESSER: Marsha Schubert has already pled
8 guilty in Federal Court to the money laundering, some from
9 the Ponzi Scheme. So when he says there wasn't an illegal
10 scheme or that there wasn't a Ponzi Scheme that has already
11 been established in Federal Court.

12 THE COURT: All right. Thank you. This Court has
13 nothing to do with the Receiver's claim for forty eight
14 hundred dollars against your client. Your client has a
15 perfectly good forum to protect his rights and the Motion to
16 Intervene in this case is overruled. The Order appointing
17 Receiver is modified to provide Receiver is appointed for the
18 Schubert entities and to conduct such conduct and affairs
19 that are appropriate in protecting and solidifying the
20 interests of the Schubert entities and those persons
21 interested and affected by those entities.

22 MR. BEDNAR: Your Honor, as a matter of
23 clarification, did you mean to say that my client has a right
24 to protect his interests and intervene in this court? Is
25 that correct?

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

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)

Plaintiff,)

v.)

Case No. CJ-2004-256

Marsha Schubert, an individual and)
dba Schubert and Associates;)
Richard L. Schubert, an individual and)
dba Schubert and Associates; and)
Schubert and Associates,)
an unincorporated association,)

Defendants.)

SECOND ORDER AMENDING AUTHORITY OF RECEIVER

This matter came on for hearing this ____ day of _____, 2005, before the undersigned Judge of the District Court in and for Logan County, State of Oklahoma, upon the Plaintiff's motion to amend the *Order Amending Authority of Receiver* entered in this matter on December 10, 2004 (First Amended Order).

The Oklahoma Department of Securities appears through its attorneys, Amanda Cornmesser and Gerri Stuckey. The Receiver, Douglas L. Jackson, appears through his attorney, Brad Davenport.

On October 14, 2004, upon Plaintiff's verified Petition for Permanent Injunction and Other Equitable Relief (Petition), this Court issued a Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets and Order for Accounting (Temporary Restraining

Order) pursuant to Section 1-603 of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003).

On November 15, 2004, a permanent injunction was entered against Defendants Marsha Schubert and Schubert and Associates. The permanent injunction enjoins Marsha Schubert and Schubert and Associates from offering and selling securities and transacting business as a broker-dealer or agent in and/or from Oklahoma and provides for the continuation of the asset freeze and the receivership pending determination of the amount of restitution owed.

On December 10, 2004, this Court entered the First Amended Order granting additional authority to the receiver.

On December 10, 2004, an order was entered modifying the Temporary Restraining Order with respect to Richard Schubert.

On August 12, 2005, this Court ordered that the First Amended Order be modified to clarify the application and scope of the Receiver's authority in this matter.

The Court, having previously ordered that the First Amended Order be clarified, and having reviewed all pleadings and submissions of the parties, finds that it is in the public interest and within the discretionary authority of this Court to issue this Order .

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Order Amending Authority of Receiver entered on December 10, 2004, be modified as provided herein, and, that Douglas L. Jackson (Receiver) shall continue to serve as Receiver for the Defendants and over their assets. For purposes of this Order, "assets" shall mean those assets as provided for in the Temporary Restraining Order, as modified in the order dated December 10, 2004, with respect to Richard Schubert, and the proceeds of the investment program described in the Petition

(Schubert Investment Program) by which certain participants were unjustly enriched or received fraudulent transfers.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Douglas L. Jackson shall continue to serve as receiver for the creditors of Marsha Schubert and Schubert and Associates; however, such authority does not extend to title to or possession of the assets of such creditors.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver is authorized to accomplish the following:

1. to assume full control of the businesses known as Schubert and Associates, Kattails, LLC, and The End Zone, by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent of those entities, including any Defendant, from control of, management of, participation in the affairs of, or from the premises of those entities;
2. to take immediate and exclusive custody, control and possession of all assets and the documents of, or in the possession or custody, or under the control of Defendants, of whatever kind and description, and wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take possession of, hold, and manage all assets and documents of the Defendants;
3. to conserve, hold and manage all assets of Defendants and the businesses known as Schubert and Associates, Kattails, LLC, and The End Zone pending further action by this Court in order to prevent any irreparable loss, damage or injury to creditors; to conserve and prevent the withdrawal or misapplication of funds entrusted to Defendants, their agents, employees, officers, directors, principals, distributors, sales representatives

and/or attorneys; to take the necessary steps to protect the interests of creditors, including the liquidation or sale of assets of Defendants; and to prevent violations of the Act by Defendants;

4. to make such payments and disbursements as may be necessary and advisable for the preservation of the assets of Defendants and as may be necessary and advisable in discharging his duties as Receiver;

5. to retain and employ attorneys, accountants, computer consultants and other persons as the Receiver deems advisable or necessary in the management, conduct, control or custody of the affairs of Defendants and of the assets thereof and otherwise generally to assist in the affairs of Defendants. Receiver may immediately retain or employ such persons, and compensate such persons, all subject to filing as soon as practicable with this Court, an application seeking approval of the employment;

6. to institute, prosecute and defend, compromise, adjust, intervene in or become party to such actions or proceedings in any state court, federal court or United States bankruptcy court as may in Receiver's opinion be necessary or proper for the protection, maintenance and preservation of the assets of Defendants, or the carrying out of the terms of this Order, and likewise to defend, compromise, adjust or otherwise dispose of any or all actions or proceedings now pending in any court by or against Defendants where such prosecution, defense or other disposition of such actions or proceedings will, in the judgment of the Receiver, be advisable or proper for the protection of the assets of Defendants;

7. to institute actions, including any actions against participants in the Schubert Investment Program who were unjustly enriched through the "Ponzi" scheme of Marsha

Schubert and Schubert and Associates, when the assets transferred were not supported by adequate consideration; against persons who did not invest any amount of money in the Schubert Investment Program, yet received proceeds of the fraudulent scheme; and against brokerage firms and/or other third parties from whom the Receiver deems it necessary to seek disgorgement of the proceeds of the fraudulent scheme, in order to promote equity and a fair distribution among all creditors of Marsha Schubert and/or Schubert and Associates. However, such authority shall in no way be intended, interpreted or applied to impair or impede the private rights of any participant in the Schubert Investment Program, or any creditor of Marsha Schubert and/or Schubert and Associates, to seek legal and/or equitable relief on their own initiative and in their own name;

8. to issue subpoenas ad testificandum and subpoenas duces tecum, take depositions, and issue written discovery requests to the parties, family members of Defendants, business associates of Defendants, participants in the Schubert Investment Program, and other witnesses in and through the pending case of *Oklahoma Department of Securities v. Marsha Schubert, et. al.*, Logan County District Court, Case No. CJ-2004-256; and

9. to take all steps necessary to secure the business premises of the businesses known as Schubert and Associates, Kattails, LLC, and The End Zone and to exercise those powers necessary to implement his conclusions with regard to disposition of this receivership pursuant to the orders and directives of this Court.

THIS ORDER IS ENTERED this ____ day of _____, 2005, at ____:____, __.m.

DISTRICT COURT JUDGE