

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA
LOGAN COUNTY SS:
FILED FOR RECORD ON

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ROSEMARY ZMEK
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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.)

BY _____ DEPUTY

TEMPORARY ORDER

This matter came on for hearing this 10th day of December, 2004, before the undersigned Judge of the District Court in and for Logan County, State of Oklahoma, for modification of the Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets and Order for Accounting ("Temporary Restraining Order") entered in this matter on October 14, 2004.

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

By agreeing to the entry of this order, Richard L. Schubert waives no defenses and makes no admissions with respect to the allegations in the Plaintiff's Petition.

The Court, having reviewed all pleadings and submissions of the parties, finds that the Temporary Restraining Order dated October 14, 2004, should be amended or modified in part.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the asset freeze, receivership and order of accounting remain in effect as provided in the Temporary Restraining Order, except as follows: Richard L. Schubert is hereby granted the immediate possession of the following described real and personal property, to wit:

- a) Southeast Quarter of the Northeast Quarter (SE/4 NE/4) of Section Eighteen (18), Township Seventeen (17) North, Range Four (4) West of the Indian Meridian, County of Logan, State of Oklahoma;
- b) Southwest Quarter (SW/4 of Section Thirty-two (32), Township Nineteen (19) North, Range Four (4) West of the Indian Meridian, County of Logan, State of Oklahoma;
- c) all growing crops, as well as crops harvested and in storage;
- d) all farm machinery and equipment;
- e) all cattle in the possession of Richard L. Schubert as of October 14, 2004, subject to any bank's security interest(s) in such cattle;
- f) the marital home and possessions contained therein, if so ordered by the court in the matter of *Richard Leland Schubert, Petitioner, v. Marsha Kay Schubert, Respondent, and Douglas L. Jackson, Receiver*, FD 2004-199, in the District Court of Logan County; and
- g) the 2003 F-350 Ford Pickup.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the pendency of these proceedings, Richard L. Schubert shall not encumber, mortgage, sell or convey any of

the assets of the Defendants including, but not limited to, the real and personal property described above, without first providing three (3) business days written notice to the Receiver and receiving the prior approval of the Court, except that Richard L. Schubert may sell farm products (as that term is defined in OKLA. STAT. ANN. tit. 12A, §1-9-102(a)(34)) in the ordinary course of business.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Richard L. Schubert shall promptly establish a checking account ("Account") at a bank of his choice and that all funds he receives from the sale of farm products shall be deposited in the Account and subject to the Temporary Restraining Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Richard L. Schubert shall prepare a budget ("Budget") for his personal expenses and expenses of his farming operation for a period of six (6) months from the date of this Temporary Order which shall be submitted to the Receiver for the Receiver's written approval and upon being approved by the Receiver, the Budget shall then be submitted to the Court for the Court's written approval.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the Budget being approved by the Receiver and the Court, Richard L. Schubert may deposit in the Account funds up to but not to exceed the amount set forth in the Budget. The Receiver may deposit Raymond James Check No. 31385 in the amount of \$49,734.06 in Receiver's bank account, which funds will be used to fund the Budget. Neither the Receiver's nor Richard L. Schubert's rights and/or interest in and to the full sum of money represented by Raymond James Check No. 31385 will be prejudiced or otherwise affected by this agreed Temporary Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Richard L. Schubert shall submit to the Court by the 15th day of each month an accounting of the Account which shall include all deposits into the Account and all disbursements from the Account.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the pendency of these proceedings, Richard L. Schubert shall permit the Plaintiff and the Receiver access to his financial records, and that Plaintiff and Receiver shall further have the right, at reasonable times, to inspect any and all real or personal property in the possession of Richard L. Schubert.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Richard L. Schubert shall provide such information to the Receiver and/or to the Receiver's accountants as may be necessary so that the accountants may prepare and provide to the court an accounting.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Richard L. Schubert shall transfer or deliver to Plaintiff all documents or records relating to Marsha Schubert, Schubert and Associates, or the Schubert and Associates investment program as described in the Petition for Permanent Injunction and Other Equitable Relief filed herein. Such documents shall include, but not be limited to, books, records, tapes, discs, accounting data, checks, correspondence, forms, advertisements, brochures, manuals, electronically stored data, bank records, customer lists, customer files, telephone records, ledgers, and payroll records. All telephone communications and correspondence directed or addressed to Marsha Schubert and/or Schubert and Associates, or relating to the Schubert and Associates investment program will continue to be directed to the Receiver.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the parties has reserved any and all claims of rights they may have, such that any party may petition the Court

for further relief, amendments or modifications of the temporary orders upon filing appropriate pleadings and notice to the other parties.

THIS ORDER IS ENTERED this 10th day of December, 2004, at 2:00 p.m.

DONALD L. WORTHINGTON

DISTRICT COURT JUDGE

Approved as to Form and Substance:

Gerri L. Stuckey, OBA #16732
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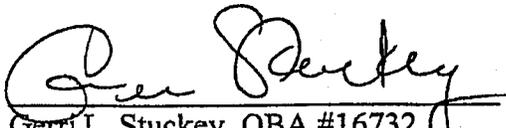
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323 W. Broadway
Enid, OK 73701
(580) 234-1284
Attorney for Receiver, Douglas L. Jackson

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