

IRVING L. FAUGHT
ADMINISTRATOR



MARY FALLIN
GOVERNOR

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES

MEMORANDUM

To: *Irving L. Faught, Administrator*

From: *Melanie Hall, Deputy Administrator*

Date: *March 7, 2016*

Re: **ENFORCEMENT REPORT**

Attached is the report of the enforcement activities of the Department for the months of January and February, 2016.

Attachment

h/home/londonb/EnforcementReports/16_Enf-Reports_Jan-Feb_2016.doc

**OKLAHOMA DEPARTMENT OF SECURITIES
ENFORCEMENT ACTIVITIES
JANUARY AND FEBRUARY 2016**

		FY-16	FY-15
		YTD	YTD
I.	Enforcement Files		
	a. Enforcement Files Opened	48	48
	1. Securities Act	46	47
	2. Business Opportunity Sales Act	2	0
	3. Other	0	1
	b. Enforcement Files Closed	60	62
	c. Active Enforcement Files	171	174
II.	Actions Taken		
	a. Administrative Subpoenas	48	0
	1. Securities Act	48	0
	2. Business Opportunity Sales Act	0	0
	b. Orders Initiating Investigation	0	0
	1. Securities Act	0	0
	2. Business Opportunity Sales Act	0	0
	c. Summary Orders	0	0
	1. Securities Act	0	0
	2. Business Opportunity Sales Act	0	0
	d. Notices of Opportunity for Hearing Served	4	4
	1. Securities Act-Notices	4	3
	i. Hearing Set	1	1
	ii. Hearings Held	0	0
	2. Business Opportunity Sales Act Notices	0	1
	i. Hearing Set	0	0
	ii. Hearings Held	0	0

		FY-16	FY-15
		YTD	YTD
	2. Business Opportunity Sales Act Notices	0	1
	i. Hearing Set	0	0
	ii. Hearings Held	0	0
	e. Other Orders	15	20
	1. Securities Act	15	19
	2. Business Opportunity Sales Act	0	1
	f. Public Undertakings/Agreements	9	5
	1. Securities Act	9	5
	2. Business Opportunity Sales Act	0	0
	g. Confidential Settlement Agreements	0	0
	1. Securities Act	0	0
	2. Business Opportunity Sales Act	0	0
	h. Letters of Caution	2	5
	1. Securities Act	2	5
	2. Business Opportunity Sales Act	0	0
	i. Appeals from Final Orders	0	1
	1. Securities Act	0	1
	2. Business Opportunity Sales Act	0	0
	j. Civil Penalties - Amounts Collected	\$47,000	\$221,690.11
	1. Securities Act	\$47,000	\$221,690.11
	2. Business Opportunity Sales Act	\$0	\$0
	k. Administrative Costs - Amounts Collected	\$0	\$0
	1. Securities Act	\$0	\$0
	2. Business Opportunity Sales Act	\$0	\$0

		FY-16	FY-15
		YTD	YTD
	I. Civil Enforcement Activities		
	1. Securities Act		
	i. Subpoenas Issued	0	6
	ii. Civil Petitions Filed	1	2
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	1	0
	v. Civil Appeals Filed	0	1
	vi. Administrative or other Court Appearances (including pleadings filed)	44	54
	2. Business Opportunity Sales Act		
	i. Subpoenas Issued	0	0
	ii. Civil Petitions Filed	0	0
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	0	0
	v. Civil Appeals Filed	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)	0	0
	m. Miscellaneous Activities		
	1. Public Information/Press Releases (copy attached)	0	0
	2. Trainings/Seminars Attended	13	8
	3. Coordinated Activities	0	0
	III. Inquiries and Complaints		
	a. Inquiries	31	29
	b. Referrals from Other Oklahoma Agencies	3	2
	c. Referrals from Out of State Agencies	3	2

Administrative Actions

SUMMARY

**In the Matter of: CitiGroup Global Markets Inc.
ODS File No. 15-070**

State securities regulators from multiple jurisdictions conducted a coordinated investigation into the lack of registration of sales assistants of CitiGroup Global Markets Inc. (“CGMI”) and CGMI’s supervisory systems with respect thereto. On January 7, 2016, the Administrator of the Department issued a Consent Order. The Consent Order addressed certain remedial changes to the firm’s registration policies, supervisory procedures, and order entry systems. CGMI also agreed to pay the sum of \$35,000 to the Department’s Investor Education Revolving Fund.

**In the Matter of: Anthony Ray Stacy and PVPE, LLC
ODS File No. 13-066**

On August 21, 2015, the Administrator issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Anthony Ray Stacy (“Stacy”) of Scottsdale, Arizona, and PVPE, LLC (“PVPE”) of Phoenix, Arizona, (collectively, “Respondents”). The Department alleged that Stacy, formerly registered under the Oklahoma Uniform Securities Act of 2004 (“Act”) as an investment adviser representative, offered and/or sold securities in the nature of limited partnership interests in the Palo Verde Fund, L.P. (“PV Fund”) to two Oklahoma residents (“Clients”), in violation of Sections 1-501 and 1-502 of the Act and 660:11-7-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (“Rules”). In connection with the offer and sale of securities and the provision of investment advice to the Clients, Respondents allegedly made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of the Act. Respondents allegedly engaged in unethical practices in the securities business by (1) transacting business as an investment adviser or investment adviser representative for the Clients without entering into written investment advisory contracts with the Clients; (2) recommending that Clients invest nearly all of their retirement funds and savings in the PV Fund without reasonable grounds to believe that such recommendations were suitable for the Clients on the basis of information furnished by the clients; and (3) breaching their fiduciary duties to the Clients and to the PV Fund. Stacy is also the subject of an order, issued after notice and opportunity for hearing by the securities regulator of the state of Arizona, that permanently revoked his registration as an investment adviser representative under Arizona’s securities laws. The Department is seeking an order barring Respondents from registration under the Act and barring Stacy from association with a broker-dealer or investment adviser registered under the Act.

PVPE failed to file an answer to the Recommendation and to request a hearing. On September 25, the Administrator issued an order barring PVPE from registration under the Act.

Stacy filed an answer to the Recommendation on September 29, and a request for hearing on October 5. A hearing date is set for February 3, 2016. The Administrator issued a scheduling order on October 30.

On January 28, 2016, Stacy voluntarily entered into an Agreement in lieu of a hearing in this matter and without the adjudication of any issue of law or fact raised in the Recommendation. Stacy consented to the entry of an order whereby Stacy will not reapply for registration in any capacity under Oklahoma's securities laws. On January 28, the Administrator issued an order barring Stacy from registration in any capacity under the Act and from association in any capacity with a broker-dealer or investment adviser registered under the Act.

In the Matter of: Tania L. Smith
ODS File No. 16-035

On February 11, an agreement was entered into between Tania L. Smith ("Respondent") and the Administrator in which Respondent's pending applications for registration under the Act will be approved as of the Effective Date of the Agreement. However, for 18 months from the Effective Date of the Agreement, all of Respondent's registrations under the Act will be conditioned upon Respondent being subject to a heightened supervision plan that is approved by the firm with which she is associated and the Administrator. Respondent agreed to complete the following electronic courses offered by FINRA: Private Securities Transactions; Outside Business Activities; and Annual Compliance Reminders for Registered Representatives. Upon completion of each of these courses, Respondent will take the post-course examination/assessment, if one is offered, and submit any document(s) showing completion of all of the courses to the Administrator. Respondent further agreed to pay a civil penalty in the amount of \$1,000 to the Department's Investor Education Revolving Fund.

In the Matter of: Beth E. Dutoit
ODS File No. 16-021

On November 30, 2015, the Administrator of the Department issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Beth E. Dutoit ("Respondent"), of Norman, Oklahoma. The Department alleged that Respondent was registered under the Act as an agent and investment adviser representative of Edward Jones from December 2011 and February 2012, respectively, to May 2015. While associated with Edward Jones, Respondent photocopied documents containing clients' signatures to create new documents appearing to have been signed by the clients. Respondent was permitted to resign from Edward Jones while under an internal review. In connection with the internal review, Edward Jones informed Respondent that her conduct violated firm policy and had been previously addressed by the firm in a continuing education course on ethics. After leaving Edward Jones, Respondent was registered under the Act as an agent and investment adviser representative of United Planners Financial Services ("United Planners") until September 2015. While associated with United Planners, Respondent copied a client's signature onto a form without the client's knowledge. United Planners discharged Respondent as a result.

On February 25, 2016, an agreement was entered into between Respondent and the Administrator in which Respondent consented to the entry of an order whereby Respondent's registration under the Act as an investment adviser representative of Access Financial Resources, Inc., is deemed effective January 1, 2016, and immediately suspended for six (6) months, ending June 30, 2016. For two years beginning July 1, 2016, Respondent shall be subject to a heightened supervision plan approved by the firm with which she is associated and the Administrator.

In the Matter of: Douglas R. Claycomb
ODS File No. 15-022

In connection with an on-site examination, the Department learned that Douglas R. Claycomb ("Respondent") engaged in an outside business activity without providing prior written notice of the outside business activity to the broker-dealer with which he was associated. Such conduct is in violation of FINRA Rule 3270 and 660:11-5-42(b)(1) of the Rules. In order to resolve the issues of the examination, Respondent executed a Memorandum of Understanding stating he will not engage in outside business activities without providing prior written notice to the firm with which he is associated. This matter was closed on February 1, 2016.

Civil Actions

SUMMARY

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v. Seabrooke Investments, LLC; Seabrooke Realty, LLC; Oakbrooke Homes, LLC; Bricktown Capital, LLC; KAT Properties, LLC; Cherry Hill, LLC *dba* Cherry Hill Apartments; Tom W. Seabrooke; and Judith Karyn Seabrooke
Civil Case No. CJ-2014-4515**

On August 11, 2014, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against the above-named Defendants, all of Oklahoma City, Oklahoma, alleging violations of Sections 1-301, 1-402 and 1-501 of the Act. The Department also filed an Application for a Temporary Restraining Order, Order Freezing Assets, Order Appointing Receiver, Order for Accounting and Temporary Injunction. On the same date, Judge Patricia G. Parrish issued a Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets, and Order for Accounting. Judge Parrish appointed Ryan Leonard as Receiver. On August 18, Robert Edinger filed his entry of appearance as counsel for the Receiver. On August 19, the Defendants filed a motion to vacate the temporary restraining order. On August 19, a hearing was held on the Department's application for a temporary injunction and Defendants' motion to vacate the temporary restraining order. Judge Parrish ordered the entry of a temporary injunction and ordered that the asset freeze, with the exception of one bank account, and the receivership remain in effect.

On September 9, a hearing was held on the Receiver's emergency motion to release the Bricktown Hotel and Convention Center as an asset of the Receivership. The Receiver believed that the value of the hotel was less than the value of its existing mortgages. The Court ordered that the Bricktown Hotel and Convention Center be released from the asset freeze and receivership. Upon oral motion by the Seabrookes' counsel, the Court considered compensation from the receivership estate for Tom and Karyn Seabrooke. The Court authorized a one-time \$4,000 payment to Tom Seabrooke for his prior services in management of the hotel. The Court further authorized Karyn Seabrooke to receive a monthly payment of \$2,500 for property management services so long as the Receiver continues to utilize her services and one-half of all real estate commissions earned by Seabrooke Realty, LLC so long as she is licensed to sell real estate, employed by Seabrooke Realty, LLC, and utilized by the Receiver in that regard.

After the Court's September compensation ruling, the Department filed a motion to remove Tom and Karyn Seabrooke from employment by the receivership. This motion was heard on October 14. The Court denied the Department's motion and ruled that Karyn Seabrooke would continue to receive monthly compensation in the amount of \$2,500.

During the month of November, 2014, the Court approved the Receiver's fee application for the month of September and the Receiver filed an application for the approval of his October 2014 fees. An agreed order was entered for the sale of the Cherry Hill Apartments located at 4708 S.E. 44th Street, Oklahoma City, Oklahoma ("Cherry Hill Apartments"). The Department

filed a motion to retain the commission from the receivership sale of the Cherry Hill Apartments. The Defendants filed an objection to the Department's motion to retain the commission and the Department filed a reply. An agreed order was entered for the sale of property located at 2528 N.W. 12th Street in Oklahoma City, Oklahoma. An order was issued memorializing a September 2014 decision of the Court approving compensation to Tom and Karyn Seabrooke.

During the month of December, 2014, the Receiver filed a motion for contempt and for a declaratory order against First Commercial Bank ("FCB") regarding the release of funds escrowed in connection with the sale of the Cherry Hill Apartments. Judge Parrish ordered the commission from the sale of the Cherry Hill Apartments to be escrowed. The Receiver filed an application for the Court to establish a claims procedure for creditors and/or investors. First National Bank of Weatherford ("FNB-Weatherford") filed a motion for the release of the Oakbrooke Lawton Property from the Receivership estate. The Court approved the Receiver's October fee application and the Receiver filed an application for an order approving fees and expenses for the month of November.

During the month of January 2015, FNB-Weatherford filed a motion for the release of the Oakbrooke College Park Property from the Receivership estate and a supplement to its motion for the release of the Oakbrooke Lawton Property. An agreed order was entered releasing the property from the Receivership estate. Quail Creek Bank ("QCB") filed a motion to disburse escrowed funds to QCB. Bricktown Capital LLC ("Bricktown Capital") filed a motion to disburse escrowed funds to Bricktown Capital and for the payment of expenses of hotel vendors, and an objection to QCB's motion for disbursement. QCB filed an objection to Bricktown Capital's motion for disbursement of escrowed funds and for the payment of expenses of hotel vendors. The Department and the Receiver filed responses to QCB's motion. The Department also filed a response to Bricktown Capital's motion. QCB filed a response to all parties' objections to its motion. Wayne Doyle, a non-party, filed a motion for leave to intervene. An agreed protective order was issued relating to certain information requested from Wayne Doyle. The Court approved the Receiver's November fee application. An agreed order was entered establishing a claims procedure and setting a March 15, 2014 deadline for the filing of claims.

During the month of February, agreed orders were entered authorizing conditional intervention by FCB and Wayne Doyle. FCB filed its response to the Receiver's contempt motion and the application for an order to disburse escrowed attorney's fees relating to the Cherry Hill Apartments. Ilana D. Sharpe filed her entry of appearance as counsel for the Defendants. The Receiver filed a response to Bricktown Capital's motion for payment to hotel vendors. A hearing was held on February 6, wherein the Court granted, in part, QCB's motion to disburse escrowed funds. The Court ordered the payment of \$6,064.20 to QCB and the payment of the remaining escrowed funds to the Receiver. At the hearing, the Court postponed a decision on the Defendants' motion to pay hotel vendors. An order was issued memorializing the February 6 rulings. Bricktown Capital filed a motion to strike the order and to substitute a corrected order. Agreed orders were entered releasing the Oakbrooke College Park Property from the Receivership estate and continuing the hearing on the FNB-Weatherford intervention motion. Alicia Holtslander-Petrone filed an emergency application to intervene and a motion for an emergency order for the disposition of assets relating to Receivership properties on 17th Street

in Oklahoma City, Oklahoma. The Receiver filed a fee application for December 2014 and January 2015. Defendants filed an objection to this fee application. An agreed order was entered for the sale of property located at 1609 N.W. 15th Street, Oklahoma City, Oklahoma.

During the months of March and April, an agreed order was entered for the sale of properties located on 17th Street in Oklahoma City, Oklahoma. The Receiver's fee application for December 2014 and January 2015 was granted. The Receiver, Intervenor Wayne Doyle, and Defendant Bricktown Capital filed a Joint Motion for Interpleader requesting that the Court authorize the deposit with the court clerk of the balance of the proceeds from the sale of the Bricktown Hotel (\$187,585.90). The motion was granted. Doyle filed a motion asking for disbursement of the interpled funds plus an additional \$11,733.74 as payment on the secured indebtedness owed him. The Receiver filed a fee application for February 2015. Defendants filed an objection to this fee application. The Receiver's fee application was granted. The Department and the Receiver filed responses to FCB's application for an order to disburse escrowed fees. Both parties requested the release of the escrowed funds to the Receiver, while preserving the right of FCB to seek reimbursement of attorney fees in the claims process.

During the months of May and June, the Receiver filed a fee application for March 2015 to which Defendants filed an objection. The Court granted the application, as revised. Agreed orders were entered for the sale of the Briargate Plaza Apartments and properties located on Indiana Avenue and Northwest 11th, Northwest 17th and Northwest 21st Streets in Oklahoma City, Oklahoma. An application to intervene and a motion for an order to determine the right to proceeds from the sale of real estate were filed by Peggy Johnston and HPJ Family LP. A hearing is set for August 5th. The Department and Receiver filed responses to Doyle's motion asking for disbursement of the interpled funds. Doyle filed a reply to the Department's response. The Receiver filed notice of his *in camera* submission to the Court relating to his objection to Doyle's motion to disburse interpled funds and the Receiver's motion to retain the interpled funds as a receivership asset. Doyle filed a reply to the Receiver's objection and motion. An evidentiary hearing date is set for August 5th on Doyle's motion to disburse. The Receiver filed fee applications for April and May 2015.

During the months of July and August, the Receiver filed an amended fee application for April through May 2015; a fee application for June 2015; and an application for distributions on certain claims relating to Oklahoma City properties located at 1405 N.W. 17th Street, 1409 N.W. 17th Street, 1413 N.W. 17th Street, 1419 N.W. 17th Street, 1507 N.W. 17th Street, 1609 N.W. 15th Street, and 425 N.W. 11th Street. On August 24, James A. Slayton filed his entry of appearance as counsel for Peggy Johnston; HPJ Family LP; and HPJ Family Trust.

During the months of September and October, Terry D. Kordeliski II filed a motion to withdraw as counsel for Peggy Johnston, HPJ Family Trust, and HPJ Family LP. The Court granted the Receiver's fee application for June 2015. The Receiver filed fee applications for July, August and September. The Court granted the applications. An agreed order was entered for intervention by Peggy Johnston, HPJ Family Trust, and HPJ Family LP. An order was entered on the Receiver's application for distributions on certain claims relating to Oklahoma City properties located at 1419 N.W. 17th Street and 1507 N.W. 17th Street. Judge Parrish

ordered the interpled funds from the sale of the Bricktown Hotel be disbursed by the District Court Clerk to the Receiver. An agreed order was entered for the sale of eight lots in the Ravenswood Manor Addition in Oklahoma City.

During the months October and November, Mr. Kordeliski's motion to withdraw as counsel for Peggy Johnston, HPJ Family Trust, and HPJ Family LP was granted. The Receiver filed fee applications for October and November. The Court granted the Receiver's fee applications for September and October. Defendants consented to the entries of permanent injunctions and waived any right to appeal the order. Judge Parrish issued orders against Defendants permanently enjoining them from offering and/or selling securities in and/or from Oklahoma. The Receiver filed his report on claims and requested the Court's authority to make distributions. The judge issued an order requiring notice to claimants of the Receiver's report and their opportunity to respond.

During the months of January and February 2016, entries of appearance were filed by J. Scott Henderson and Kevin Blaney as counsel for a claimant, Advance Restaurant Finance *nka* ARF Financial LLC ("ARF"). Objections and responses to the Receiver's recommendations as to claims were filed by ARF, FNB-Weatherford, and Wayne Doyle. The Department and the Receiver filed their responses to the objections. Wayne Doyle filed a supplement to his objection. The Court granted the Receiver's fee application for November 2015. The Receiver filed a fee application for January 2016. A hearing on the Receiver's recommendations was held on February 29, 2016; however, the judge did not make a ruling at the conclusion of the hearing.

The State of Oklahoma *ex rel.* The Oklahoma Securities Commission v. Secure Operations Group, LLC and George Conner
Civil Case No. CV-2015-568

On March 31, 2015, the Department filed an Application to Enforce Subpoena Compliance in the District Court of Oklahoma County, against Secure Operations Group, LLC and George Conner (collectively, the "Defendants").

A hearing was held on October 30, 2015. Judge Thomas E. Prince ordered the Defendants to produce all documents required by the subpoena no later than November 30. The documents were not produced.

During the month of December, the Department filed an application for contempt against Defendants for failure to comply with the Court's order enforcing the administrative subpoena that was entered on October 30. Judge Prince issued a Citation for Contempt against Defendants and set a contempt hearing for January 29, 2016.

In January, the contempt hearing was continued to February 19. On February 17, the hearing was stricken from the Court's docket.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v.
Larry Robert McDaniel
Civil Case No. CJ-2015-6867**

On December 18, 2015, the Department filed a Petition for Permanent Injunction and Other Equitable Relief (“Petition”) in the District Court of Oklahoma County against Larry Robert McDaniel, of Del City, Oklahoma, alleging violations of Sections 1-301 and 1-501 of the Act.

On January 14, 2016, Timothy D. McCoy filed his entry of appearance as counsel for the Defendant. On January 22, the Defendant filed his answer to the Department’s petition.