

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES)
ex rel. Irving L. Faught,)
Administrator)
Plaintiff,)

vs.)

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.)

Case No. CJ-2004-256

**MOTION TO DISMISS APPLICATION FOR CITATION
OF INDIRECT CONTEMPT AGAINST BARRY POLLARD**

COMES NOW Barry Pollard, hereinafter Pollard, and hereby moves to Dismiss the Application for Citation of Indirect Contempt filed against him by Plaintiff herein. In support thereof, Pollard alleges and states the following:

1. As is evident from the pleadings in this action Pollard is not a party to this lawsuit and therefore the Court has no jurisdiction to hear any application for indirect contempt.

2. Pollard filed a civil petition against Defendant, Marsha Schubert, dba Schubert and Associates hereinafter Schubert on March 4, 2005 in the District Court of Logan County, Case No. CJ-2005-71. On June 10, 2005, this Honorable Court, the same Court which entered the permanent injunction alleged to be violated by Pollard granted Pollard a judgment against Schubert in Case No. CJ-2005-71, District Court of Logan County per Exhibit "A" attached. On July 14, 2005, this Honorable Court, upon

presentation of evidence, determined the amount of damages due Pollard was in the amount of \$827,000.00 and entered judgment. A copy of which Judgment is attached hereto as Exhibit "B".

3. On July 14, 2005, David G. Trojan, attorney for Pollard, filed an Affidavit of Mailing stating that on July 8, 2005, he mailed a true and correct copy of the Courts order to Schubert and to Douglas L. Jackson, Receiver for Schubert and Associates. A copy of the Affidavit of Mailing and the Order to which it refers are attached hereto as Exhibit "C".

4. The judgment as granted by this Court Exhibit "B" attached did not in any manner violate the permanent injunction as alleged by the Plaintiff.

5. Pollard is unaware of the relevance of the fact that the Plaintiff sued Pollard in the Oklahoma County District Court on May 15, 2005. Pollards Default Judgment was entered by this Honorable Court on June 14, 2005 Exhibit "A". However, as to any relevance it should be noted per the Sheriff's return attached as Exhibit "D" that Pollard was not served until June 17, 2005, some three (3) days after the judgment was granted in favor of Pollard by this Court.

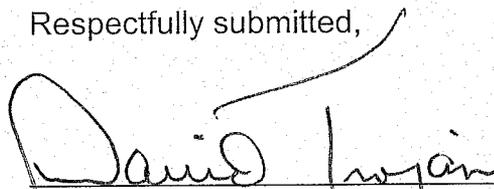
6. Pollard's judgment does not restrain the Receiver from doing anything in regards to collection of the assets of Marsha Schubert or interfere with the possession or management by the Receiver of the Receivers assets.

7. Pollard has taken actions which are authorized by Oklahoma Statutes to record, protect and perfect his judgment in the County Clerks office where he believes Schubert may or does own property.

WHEREFORE, Pollard prays that the Application for Citation of Indirect Contempt be dismissed against him and that the Court has no jurisdiction over him or in the

alternative in the event that the Court does determine that it does have jurisdiction in this case over Pollard that this Court finds that he has not in any manner violated any permanent injunction by his obtaining judgment against Marsha Schubert dba Schubert and Associates and that he have such other and further relief as is just and proper including the award of attorney fees and costs in the defense of this action.

Respectfully submitted,



David G. Trojan, OBA #9095

FIELD, TROJAN, LONG & SEDBROOK, P.C.

Post Office Box 5676

106 West Randolph

Enid, Oklahoma 73702

(580) 233-4625

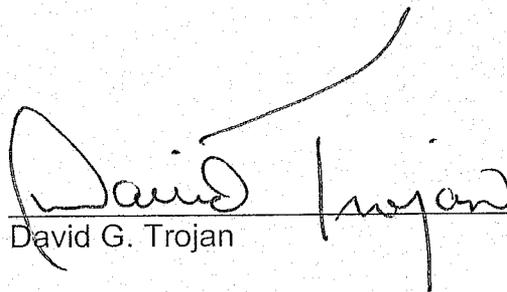
(580) 233-8874 (fax)

Attorney for Defendant Pollard

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing *Motion to Dismiss the Application for Citation of Indirect Contempt* was deposited in the United States Mail, postage fully prepaid, on the 10th day of December, 2007, to:

Amanda Cornmesser
Gerri Stuckey
Melanie Hall
First National Center, Suite 860
120 North Robinson
Oklahoma City, OK 73102
Attorneys for Plaintiff



David G. Trojan

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

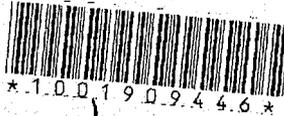
BARRY L. POLLARD,

Plaintiff,

vs.

MARSHA SCHUBERT d/b/a
SCHUBERT & ASSOCIATES,
AXA ADVISORS LLC, a Delaware
Limited Liability Company; and AXA
EQUITABLE LIFE INSURANCE
COMPANY, f/k/a EQUITABLE LIFE
ASSURANCE SOCIETY OF THE
UNITED STATES

Defendants.



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JUN 14 2005 32
PS

Case No. CJ-2005-71

DEFAULT JUDGMENT

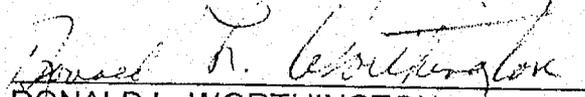
On the 10th day of June, 2005, the captioned matter came before this Court on the Plaintiff's Motion for Default Judgment. The Court, having reviewed the petition, summons, return of service and court file, finds that Defendant, MARSHA SCHUBERT, d/b/a/ SCHUBERT & ASSOCIATES, was served with the summons and petition on March 28, 2005; Defendant has failed to answer, appear or otherwise defend in this action within 20 days as required by law; and accordingly, Defendant, MARSHA SCHUBERT, d/b/a/ SCHUBERT & ASSOCIATES, is in default.

Defendant MARSHA SCHUBERT, d/b/a/ SCHUBERT & ASSOCIATES, is in default and has thus admitted the substantial allegations of the petition. The Court, being fully advised in the premises, and on consideration thereof, finds that the allegations of Plaintiff's Petition are deemed true as therein set forth, that the Defendant is liable for all

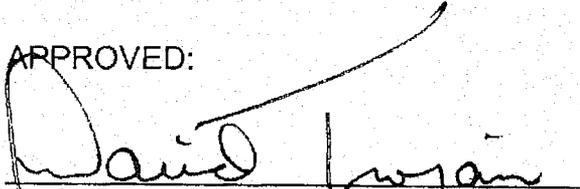
the damages sustained by the Plaintiff and that this court shall hear evidence as to the amount damages due to the Plaintiff in a separate hearing as hereinafter set forth.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff, BARRY L. POLLARD, shall have and recover a judgment of and from Defendant, MARSHA SCHUBERT d/b/a/ SCHUBERT & ASSOCIATES for liability for all damages suffered by the Plaintiff as set out in his petition. This court will determine the amount of all Plaintiff's damages at a hearing set for the 8th day of July, 2005 at 3:00 p.m.

IT IS SO ORDERED.


DONALD L. WORTHINGTON
JUDGE OF THE DISTRICT COURT

APPROVED:


David G. Trojan, OBA #9095
Field, Trojan, Long & Sedbrook, P.C.
P.O. Box 5676
Enid, OK 73702-5676
(580) 233-4625
(580) 233-8874/fax
Attorney for Plaintiff

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA
LOGAN COUNTY SS:
FILED FOR RECORD ON

05 JUL 14 PM 3: 24

BARRY L. POLLARD,

Plaintiff,



vs.

MARSHA SCHUBERT d/b/a
SCHUBERT & ASSOCIATES,
AXA ADVISORS LLC, a Delaware
Limited Liability Company; and AXA
EQUITABLE LIFE INSURANCE
COMPANY, f/k/a EQUITABLE LIFE
ASSURANCE SOCIETY OF THE
UNITED STATES

Defendants.

Case No. CJ-2005-71

JOURNAL ENTRY OF JUDGMENT

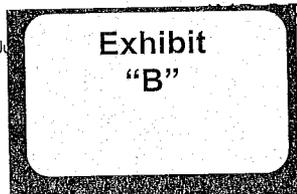
On this 14th day of July, 2005, this case comes on regularly for evidentiary hearing to determine the amount of damages due and owing to the Plaintiff, BARRY L. POLLARD, resulting from the allegations set forth in Plaintiff's Petition to all of which allegations Marsha Schubert was found to be in default pursuant to Order entered herein on the 10th day of June, 2005. Plaintiff appearing in person and by and through his Attorney, David Trojan of FIELD, TROJAN, LONG & SEDBROOK, the Court thereupon takes sworn testimony and evidence from the Plaintiff and witnesses in this matter and upon hearing the evidence finds:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff, BARRY L. POLLARD, shall have a judgment against the Defendant, MARSHA SCHUBERT d/b/a/ SCHUBERT & ASSOCIATES for the amount of \$ 877,000.00.

For all of which let execution issue.

IT IS SO ORDERED.

Donald L. Worthington
DONALD L. WORTHINGTON
CLERK OF THE DISTRICT COURT



IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

EA

JUL 11 11 04 AM

BARRY L. POLLARD,



Plaintiff,

vs.

MARSHA SCHUBERT d/b/a
SCHUBERT & ASSOCIATES,
AXA ADVISORS LLC, a Delaware
Limited Liability Company; and AXA
EQUITABLE LIFE INSURANCE
COMPANY, f/k/a EQUITABLE LIFE
ASSURANCE SOCIETY OF THE
UNITED STATES

Defendants.

Case No. CJ-2005-71

ORDER

NOW on this 8th day of July, 2005, this case comes on regularly for hearing at which time the Plaintiff through counsel advises that Plaintiff is unable to be present.

The Court then finds and it is ORDERED, ADJUDGED AND DECREED that the evidentiary hearing in this case was originally set for hearing on June 10, 2005. Thereafter, pursuant to Motion, the case was rescheduled to July 8, 2005 at 3:00 p.m.

The Court now finds and it is ORDERED, ADJUDGED AND DECREED that the evidentiary hearing to determine Plaintiff's damages herein based upon Default Judgment previously entered shall be held on July 14, 2005, at 3:00 p.m., in the District Court of Logan County.

IT IS SO ORDERED.

Donald L. Worthington
DONALD L. WORTHINGTON
JUDGE OF THE DISTRICT COURT

Exhibit
"C"
Page 2 of 2

1001888742*

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator)
Plaintiff,)
v.)
Barry Pollard and Roxanne Pollard,)
Defendants.)

CJ-2005-5799

Case No. CJ-

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

Barry Pollard
c/o David Trojan
P.O. Box 5676
Enid, OK 73702

JUN 30 2005

PATRICIA PRESLEY, COURT CLERK
by [Signature]
Deputy

SUMMONS

To the above-named Defendant:

You have been sued by the above-named plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 11th day of May, 2005.

PATRICIA PRESLEY, COURT CLERK

(Seal)

By:

[Signature]

Attorney(s) for Plaintiff(s)
Name: Amanda Cornmesser, (OBA # 20044)
Gerri Stuckey, (OBA #16732)
Melanie Hall, (OBA #1209)
Address: First National Center, Suite 860
120 N. Robinson
Oklahoma City, OK 73102
Telephone: (405) 280-7700

This summons was served on June 17 2005
(date of service)

[Signature]
Signature of person serving summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

Exhibit
"D"
Page 1 of 2

AFFIDAVIT OF SERVICE

Oklahoma Department of Securities
Ex rel. Irving L. Fraught, Administrator,
Et al. Plaintiff.

Case Number: 3799
CJ-2005-3796

Vs.

County of: **OKLAHOMA**

State of: **OKLAHOMA**

Bob Mathews, Et al. Defendants,
Gregory Ballard 90 David Trojan
To Bx 5676 Emid, OK 73702

DOCUMENTS SERVED:

Summons Subpoena _____ Subpoena Duces Tecum _____ Motion _____
Affidavit / Order _____ Notice _____ Temp. Order _____ Petition _____
Amended Petition _____ Interrogatories _____ Garnishment _____
Other _____

METHOD OF SERVICE:

By delivering a true copy of said process to: _____
Defendant / Witness

- _____ Personally.
- _____ Substituted by serving _____, a resident family member or other person of suitable age and discretion.
- _____ Corporate / Partnership, etc by serving _____
- Registered Agent / Service Agent / Officer or Attorney David Trojan
Agent in charge (President, Vice President, Secretary or Treasurer.)
- _____ Mail. By mailing a true copy to the address below, Certified and restricted delivery requested.
- _____ Posted Service. By affixing a true copy of process to the premises which is in the possession of the defendant and by mailing a true copy to the address below, Certified and restricted delivery requested on this same date.
- _____ Not found. Process was NOT SERVED on _____ for the following reason of _____

LOCATION OF SERVICE:

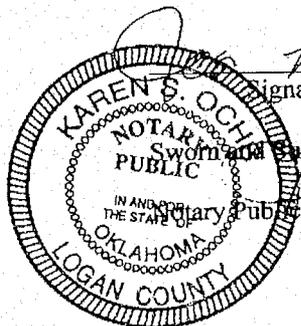
106 W Randolph Emid, OK 73701

DATE OF SERVICE:

Day Friday Month June Date 17 Year 2005 at 1¹⁰ AM PM X

Notes: Mrs Wallace accepted papers for Mr Trojan

The undersigned declares under penalty of perjury that the forgoing is true and correct.



[Signature]
Signature of Process Server

Subscribed to before me this 17 day of June, 2005
My Commission Expires: 5-1-06
TD 2007693

Exhibit
"D"
Page 2 of 2