

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

APR 17 2007

PATRICIA PRESLEY, COURT CLERK
by _____
Deputy

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

v.)

FARMERS & MERCHANTS BANK, *et al.*)
Defendants.)

Case No.: CJ-2006-3311

HEARING SET

DATE May 18, 2007
TIME 9:00 a.m.
JUDGE Parrish

ROBERT LYNN POURCHOT, Trustee of the)
Robert Lynn Pourchot Trust; *et al.*)

Plaintiffs/Intervenors,)

v.)

FARMERS & MERCHANTS BANK, *et al.*)
Defendants.)

Case No.: CJ-2006-10049

MOTION TO SETTLE JOURNAL ENTRY

Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; the Will Foundation; Pourchot Investments, LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust; Richard Reynolds; Richard Reynolds, Trustee of the Richard Reynolds Living Trust; Annenda Reynolds; Steven B. Sanders; Vicki L. Sanders; and Crandall & Sanders, Inc.'s (the "PPRS Plaintiffs") respectfully move the Court to settle the journal entry relating to: (i) the PPRS Plaintiffs' Motion to Consolidate filed in Case No. CJ-06-10049; (ii) the PPRS Plaintiffs' Motion to Intervene filed in Case No. CJ-06-3311; and (iii) Defendants', Farmers & Merchants Bank, ("F&M Bank"), John V. Anderson, individually, as an officer and director of F&M Bank, and John Tom Anderson, individually, as

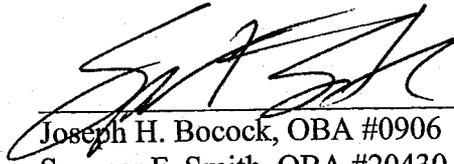
an officer and director of F&M Bank (the "Defendants"), Motion to Dismiss the PPRS Plaintiffs' Petition on the basis of improper venue and failure to state a claim upon which relief can be granted. In support of their motion to settle, the PPRS Plaintiffs state as follows:

On March 14, 2007, the above-listed motions came before this Court for hearing. The PPRS Plaintiffs' counsel was present as was counsel for the Defendants and the Oklahoma Department of Securities ("ODS"). After reviewing all motions, responses and replies submitted by the parties in connection with these matters and hearing argument by counsel for the parties, the Court ruled in favor of the PPRS Plaintiffs and, among other things, granted their Motion to Intervene.

On March 22, 2007, counsel for the PPRS Plaintiffs sent, via e-mail, a proposed Order to counsel for ODS and Defendants. A copy of the e-mail is attached hereto as Exhibit A. Counsel for ODS agreed to the proposed Order with minor changes. On March 22, 2007, Defendants' counsel responded via e-mail and represented that Defendants disagreed with the proposed Order. A copy of the e-mail is attached hereto as Exhibit B. While Defendants' counsel stated that he would send a letter formalizing the Defendants' response to the proposed order, the PPRS Plaintiffs have not received any such letter.

WHEREFORE, the PPRS Plaintiffs request that the Court settle the journal entry in this matter by approving the Order attached as Exhibit C or otherwise direct counsel concerning the contents of the journal entry.

Respectfully submitted this 17th day of April, 2007.



Joseph H. Bocock, OBA #0906
Spencer F. Smith, OBA #20430
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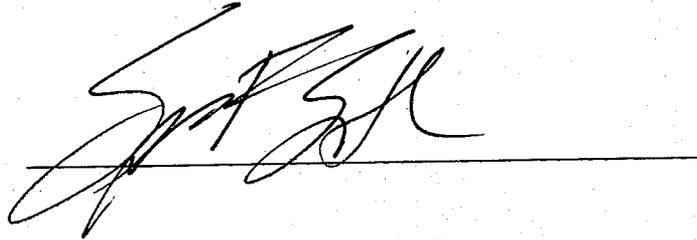
ATTORNEYS FOR PPRS PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April, 2007, a true and correct copy of the foregoing was mailed, via U.S. First Class Mail, postage prepaid, to the following counsel of record:

Melanie Hall
Amanda Cornmesser
Gerri Stuckey
Oklahoma Department of Securities
120 N. Robinson Avenue, Suite 860
Oklahoma City, OK 73102

Patrick M. Ryan
Daniel G. Webber, Jr.
Grant M. Lucky
Ryan Whaley & Coldiron
119 N. Robinson Avenue, Suite 900
Oklahoma City, OK 73102



Smith, Spencer

From: Smith, Spencer
Sent: Thursday, March 22, 2007 5:04 PM
To: 'Amanda Cornmesser'; 'Grant Lucky'
Cc: Bocock, Joseph H.; Palmerton, Sephy
Subject: ODS v F&M Bank; Pourchot v. F&M Bank

Attachments: imanageOKC_2158808_1.DOC

Amanda and Grant,

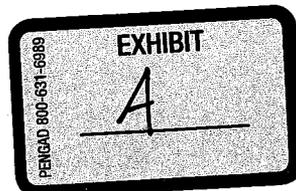
Attached is order reflecting the Court's ruling last week. If this looks ok, please sign and send a copy to Sephy, and we will get it to the Court. If you have any revisions, please let us know.

Thanks,

Spencer



imanageOKC_21
808_1.DOC (53 k)



Smith, Spencer

From: Grant Lucky [glucky@ryanwhaley.com]
Sent: Wednesday, March 28, 2007 10:24 AM
To: Bocock, Joseph H.
Cc: Amanda Cornmesser; Kurtis J. Ward, Esq.; Smith, Spencer
Subject: RE: ODS v F&M Bank; Pourchot v. F&M Bank

I will send you a letter to formalize our response to your proposed order.

-----Original Message-----

From: Bocock, Joseph H. [mailto:Joseph.Bocock@mcafeetaft.com]
Sent: Tuesday, March 27, 2007 11:22 AM
To: Grant Lucky
Cc: Amanda Cornmesser; Kurtis J. Ward, Esq.; Smith, Spencer
Subject: RE: ODS v F&M Bank; Pourchot v. F&M Bank

Grant

We submitted and got comments from the ODS on the Order before we sent you "our" draft.

Joe Bocock
Joseph H. Bocock

McAfee & Taft
10th Floor, Two Leadership Square
211 N. Robinson
Oklahoma City, Oklahoma 73102-7103
Direct-405-552-2256
Direct Fax-405-228-7456

Warning-this communication may be the subject of the Attorney Client Privilege and may not be disclosed to any other person.

-----Original Message-----

From: Grant Lucky [mailto:glucky@ryanwhaley.com]
Sent: Tuesday, March 27, 2007 11:24 AM
To: Smith, Spencer
Cc: Amanda Cornmesser; Bocock, Joseph H.; Kurtis J. Ward, Esq.
Subject: RE: ODS v F&M Bank; Pourchot v. F&M Bank

Who is we?

-----Original Message-----

From: Smith, Spencer [mailto:Spencer.Smith@mcafeetaft.com]
Sent: Tuesday, March 27, 2007 11:13 AM
To: Grant Lucky
Cc: Amanda Cornmesser; Bocock, Joseph H.; Kurtis J. Ward, Esq.
Subject: RE: ODS v F&M Bank; Pourchot v. F&M Bank

Grant,

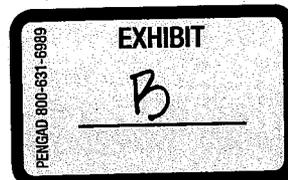
As you can imagine, we believe that the order as currently drafted accurately reflects the Court's rulings and disagree with your understanding of what happened. If necessary, we will file a motion to settle and present this to the Court.

Please let me know if you want to go that direction, and we will get the motion filed.

Spencer

-----Original Message-----

From: Grant Lucky [mailto:glucky@ryanwhaley.com]
Sent: Monday, March 26, 2007 5:04 PM



To: Smith, Spencer
Cc: Amanda Cornmesser
Subject: RE: ODS v F&M Bank; Pourchot v. F&M Bank

Spencer:

Just to touch base, I don't like the single Order as presently drafted. First, in your separately filed lawsuit, I don't believe the Motion to Dismiss based upon improper venue was deemed moot. I believe it was granted, especially in light of your verbal concession of that point at the hearing. Moreover, it was the first of the two motions to be filed.

The motion to consolidate was moot based upon the granting of the motion to dismiss for improper venue. Secondly, because there has not been a consolidation of two separate cases, there should be two separate orders as detailed above. I believe the way you styled the case in the order would be appropriate if there was a consolidation of the two cases.

-----Original Message-----

From: Smith, Spencer [mailto:Spencer.Smith@mcafeetaft.com]
Sent: Thursday, March 22, 2007 5:04 PM
To: Amanda Cornmesser; Grant Lucky
Cc: Bocock, Joseph H.; Palmerton, Sephy
Subject: ODS v F&M Bank; Pourchot v. F&M Bank

Amanda and Grant,

Attached is order reflecting the Court's ruling last week. If this looks ok, please sign and send a copy to Sephy, and we will get it to the Court. If you have any revisions, please let us know.

Thanks,

Spencer

<<imageOKC_2158808_1.DOC>>

as an officer and director of F&M Bank, and John Tom Anderson, individually, and as an officer and director of F&M Bank (the "Defendants"), Motion to Dismiss the PPRS Plaintiffs' Petition on the basis of improper venue and failure to state a claim upon which relief can be granted.

The Court has reviewed all motions, responses and replies submitted by the parties in connection with these matters and heard argument by counsel for the parties. For good cause shown, IT IS ORDERED, ADJUDGED AND DECREED as follows:

(i) Defendants' Motion to Dismiss for failure to state a claim upon which relief can be granted is DENIED;

(ii) PPRS Plaintiffs' Motion to Intervene is GRANTED and therefore, the PPRS Plaintiffs are granted leave to intervene in Case No. CJ-06-3311;

(iii) PPRS Plaintiffs' Motion to Consolidate is, therefore, MOOT; and

(iv) Defendants' Motion to Dismiss on the basis of improper venue is MOOT but would have been granted if PPRS Plaintiffs' Motion to Intervene had been denied.

IT IS FURTHER ORDERED that the PPRS Plaintiffs shall file their Petition in Intervention in Case No. CJ-06-3311 within ten (10) days of the date of this Order.

DATED this _____ day of _____, 2007.

DISTRICT COURT JUDGE

APPROVED AS TO FORM:

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