

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

FEB 17 2009

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

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

Plaintiff,)

vs.)

Case No. CJ-2006-3311

FARMERS & MERCHANTS BANK, et al.)

Defendants,)

and)

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

Intervenors.)

JOURNAL ENTRY

Defendants' *Motion to Reconsider the Denial of Defendants' Motion for Partial Summary Judgment* and Plaintiff's *Motion to Deem Certain Allegations Admitted* came before this Court. Based upon the briefs filed and being fully advised in the premises, this Court finds as follows:

Defendants' *Motion to Reconsider the Denial of Defendants' Motion for Partial Summary Judgment* is denied. Plaintiff's claim against Defendants is authorized pursuant to 71 O.S. 1-509¹ which provides in pertinent part as follows:

G. The following persons are liable jointly and severally with and to the same extent as persons liable under subsections B through F of this section:

* * *

5. Any other person who **materially aids in the conduct giving rise to the liability under subsections B through F** of this section, unless the person sustains the burden of proof that the person did not know and, in the exercise of reasonable care could not have known, of the existence of the conduct by reason of which liability is alleged to exist, . . . (emphasis added).

Subsection B of Section 1-509² provides in pertinent part as follows:

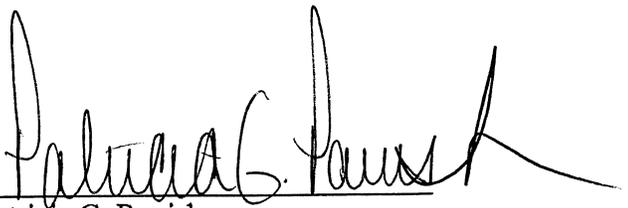
A person is liable to a purchaser if the person sells a security in violation of [Section 1-301], or by means of an **untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission, . . .** (emphasis added).

Plaintiff's *Motion to Deem Certain Allegations Admitted* is denied.

This Journal Entry shall be substituted for the Court's letter ruling dated February 2, 2009.

IT IS SO ORDERED.

Dated: 2/12/09


Patricia G. Parrish
Judge of the District Court

¹ Plaintiff's claim is also allowed pursuant to the predecessor statute, 71 O.S. § 408(b), which contains language similar to that in Section 1-509(G)(5).

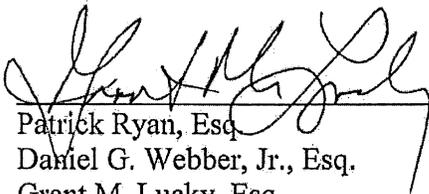
² Section 408(a)(2) is the predecessor statute to Section 1-509(B).

I, PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the District Court Clerk's Office of Oklahoma County, Okla., this 12 day of Feb, 2009.
By Patricia Presley PATRICIA PRESLEY, Court Clerk Deputy

Approved as to form:



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