

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

NOV 10 2009

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
v.)
)
The Estate of Bryan David Roark,)
Defendant.)

Case No. CJ 2009-10905

MOTION TO INTERVENE

COMES NOW Christiana K. Roark ("Intervenor"), pursuant to 12 Okla. Stat §2024, and respectfully moves to intervene in the above-captioned matter. In support of this Motion, Intervenor shows the Court as follows:

FACTS

1. On November 4, 2009 Plaintiff, Oklahoma Department of Securities, brought this action against the Estate of Bryan Roark.
2. Bryan Roark died on October 24, 2009. Intervenor is the widow of Bryan Roark.
3. On November 4, 2009 the Court entered an Order Freezing Assets and Appointing Receiver (the "Freeze Order"). A copy of the Freeze Order is attached hereto as Exhibit 1.
4. The Freeze Order freezes "those assets located in the state of Oklahoma, to include monies, securities and properties, real and personal, tangible and intangible, of whatever kind and description, whether held personally or by a Roark beneficiary or affiliate, and all other assets wherever located if paid for, in whole or in part, with Oklahoma Investor funds, to include monies, securities and properties, real and

personal, tangible and intangible, of whatever kind and description” (the “Assets”). (Freeze Order at page 1.) The term “Roark beneficiary” is defined to include any relative or spouse of such person.

5. As the widow of Bryan Roark, Intervenor has, or may have, a legal and/or equitable interest in some, or all, of the Assets.

6. Intervenor is a schoolteacher with no outside source of income other than her compensation as a schoolteacher.

7. Because of her interest in the Assets and the Freeze Order, Intervenor seeks to intervene in this action and also seek an order of this Court determining her reasonable and necessary monthly temporary support needs and providing for the payment of reasonable and necessary temporary attorney’s fees, suit money and costs of this action.

LEGAL DISCUSSION

Title 12 Okla. Stat. §2024 provides, in pertinent part, as follows:

A. INTERVENTION OF RIGHT. Upon timely application any shall be permitted to intervene in an action:

2. When the application claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest.

In applying this statute, the Oklahoma Supreme Court has held that intervention is mandatory when the intervenor claims an interest relating to the property or transaction which is the subject of the action and the disposition of the action may impair or impede his ability to protect that interest. Nicholas v. Morgan, 58 P.3d 775, 782, 2002 OK 88.

In this case, Intervenor, as the widow of David Roark, has an interest in the Assets. Therefore, Intervenor should be permitted to intervene in the above-captioned matter to protect her interests in the Assets and seek relief from this Court as may be necessary and appropriate.

WHEREFORE, premises considered, Intervenor respectfully requests that the Court permit her to intervene and file her Petition in Intervention, attached as Exhibit 2 hereto, so that she can protect her interest in the Assets, obtain an award of temporary support, temporary attorneys' fees, suit money and costs, and seek other relief which this Court deems necessary or appropriate.

Respectfully Submitted,

DUNN SWAN & CUNNINGHAM

By:



Clell I. Cunningham III, OBA #2093
2800 Oklahoma Tower
210 Park Avenue
Oklahoma City, Oklahoma 73102
(405) 235-8318

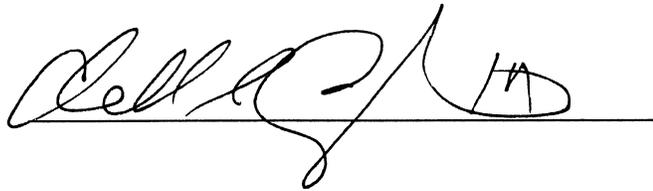
Attorneys for Intervenor

CERTIFICATE OF SERVICE

The undersigned certifies that on the 10 day of November, 2009, a true and correct copy of the above and foregoing Motion to Intervene was hand delivered to:

Oklahoma Department of Securities
Jennifer Shaw
120 North Robinson, Suite 860
Oklahoma City, OK 73102

Douglas L. Jackson
Gongoll Jackson Law Firm
3030 Chase Tower
100 North Broadway
Oklahoma City, OK 73102

A handwritten signature in black ink, appearing to read "Doug Jackson", is written over a horizontal line.

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DEPUTY

Oklahoma Department of Securities)
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Administrator,)
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Plaintiff,)
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v.)
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The Estate of Bryan David Roark)
)
Defendant.)

Case No. CJ 09-10905

**ORDER FREEZING ASSETS
AND APPOINTING RECEIVER**

Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator, has requested an order freezing the assets of the Estate of Bryan David Roark and the appointment of a receiver for such assets, pursuant to the authority granted by Section 1-603 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003). The assets subject to this Order are those assets located in the state of Oklahoma, to include monies, securities and properties, real and personal, tangible and intangible, of whatever kind and description, whether held personally or by a Roark beneficiary or affiliate, and all other assets, wherever located if paid for, in whole or in part, with Oklahoma Investor funds, to include monies, securities and properties, real and personal, tangible and intangible, of whatever kind and description (collectively, "Assets"). Further, the term "affiliate" as used herein shall include (a) a corporation or organization of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (b) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity; and (c) any relative or spouse of such person, or

any relative of such spouse, who has the same home as such person or who is a director or officer of an entity described in subsection (a) above or any of its parents or subsidiaries.

The entry of this Order is necessary to preserve the *status quo*, to prevent the dissipation of assets, and to protect the Department's rights in enforcing the Act.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Assets be, and hereby are, frozen.

IT IS FURTHER ORDERED that Morgan Stanley and Roark's affiliates, agents, servants, employees, assigns and all those persons, directly or indirectly, acting on his behalf, who receive actual notice of this Order, by personal service, facsimile or otherwise, and each of them are prohibited from tampering with, mutilating, altering, fabricating, erasing, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks, tapes or other data recordings of any type, pertaining to or referring to Roark;

IT IS FURTHER ORDERED that all banks, depository institutions, internet service providers, securities firms, or other institutions or persons served with a copy of this Order shall cooperate with the Oklahoma Department of Securities ("Department") relating to implementation of this Order, including imposing the asset freeze and producing records relating thereto. Facsimile transmission shall constitute service on the banks, depository institutions, internet service providers, securities firms, or other institutions or persons.

IT IS FURTHER ORDERED that the Estate of Brian David Roark, its agents, servants, employees, assigns and all those persons, directly or indirectly, acting on its behalf, under its direction and control, and/or in active concert or participation with it, who receive actual notice of this Order, by personal service, facsimile or otherwise, and each of them are prohibited from

directly or indirectly, transferring, withdrawing, concealing, removing, destroying, or otherwise disposing of any and all Assets.

IT IS FURTHER ORDERED that Douglas L. Jackson ("Receiver") be, and is hereby, appointed Receiver with respect to the Assets. The Receiver is given direction and authority to accomplish the following:

1. to take immediate custody, possession and control of all Assets;
2. to take immediate custody, possession and control of any and all records or documents relating to the Assets including, but not limited to, deeds, mortgages, notes, bank statements, checkbooks, and invoices previously paid or currently owed;
3. to conserve, hold, operate and manage all Assets pending further action by this Court in order to prevent any irreparable loss, damage, or injury; to conserve the funds entrusted to Roark and/or his agents; and to take the necessary steps to protect the Assets;
4. to receive and collect any and all sums of money due or owing to the Estate of Roark, whether the same are due or shall hereinafter become due and payable, and to make such payments and disbursements as may be necessary and advisable for the preservation of the Assets and as may be necessary and advisable in discharging his duties as Receiver;
5. to retain and employ attorneys, accountants, computer consultants and other persons as may be advisable or necessary to the exercise of his duties as Receiver. The Receiver may immediately retain or employ such persons, and compensate such persons, all subject to application to and approval by the Court;
6. to open and inspect any and all mail and/or deliveries addressed to Roark or his estate to determine if same relate to the existence, location, identity and/or collection, preservation, maintenance or operation of the Assets, and to notify the United States Postal

Service to effect the forward delivery of any mail addressed to Roark or his estate to a mail depository under the control of the Receiver;

7. to institute, prosecute and defend, compromise, adjust, intervene in or become party to such actions or proceedings in any state court, federal court, or United States bankruptcy court as may in the Receiver's opinion be necessary or proper for the protection, maintenance, and preservation of the Assets, or the carrying out of the terms of this Order, and likewise to defend, compromise, adjust, or otherwise dispose of any and all actions or proceedings now pending in any court by or against Roark where such prosecution, defense, or other disposition of such actions or proceedings is, in the judgment of the Receiver, advisable or proper for the protection of the Assets; and

8. to exercise those powers necessary to implement the orders and directives of this Court.

IT IS FURTHER ORDERED that all persons and entities who receive actual notice of this Order, by personal service, facsimile transmission or otherwise, shall promptly deliver and surrender to the Receiver:

1. all Assets in the possession of or under the control of any one or more of them; and

2. all books and records of any kind pertaining to the Assets and/or belonging to the Estate of Bryan David Roark.

IT IS FURTHER ORDERED that the Receiver is hereby authorized, without breaching the peace, to enter and secure any premises, wherever located or situated, in order to take possession, custody or control of, or to identify the location or existence of, any Assets. The Receiver is hereby authorized to change any locks or other security mechanisms with respect to any premises that constitute the Assets.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all banks, financial institutions and all other parties holding funds or accounts of, in the name of, or previously controlled by Roark, comply with any request of the Receiver to (a) immediately deliver all funds held for the benefit of Roark to Receiver or (b) immediately remove and delete all parties having signature authority on such accounts and replace them with the Receiver.

IT IS FURTHER ORDERED that the Receiver may apply to the Court for compensation, from time to time, in a reasonable sum to be determined by the Court and from such sources as approved by the Court and for reimbursement of reasonable expenses incurred in connection with his duties as Receiver. The fees and expenses of the Receiver shall have priority over any other claims made against Roark or his estate. The Receiver shall not be required to post a bond. Plaintiff shall have the authority to seek removal of the Receiver for cause and upon approval of this Court.

IT IS FURTHER ORDERED that all persons and entities who receive actual notice of this Order, by personal service, facsimile transmission or otherwise, fully cooperate with and assist the Receiver and that they take no action, directly or indirectly, to hinder or obstruct the Receiver in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession or control exercised by said Receiver.

IT IS FURTHER ORDERED that, except by leave of Court during the pendency of this receivership, all creditors and other persons seeking money, damages or other relief from Roark or his estate, and all others acting on behalf of any such creditor or other persons, including sheriffs, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees, are hereby stayed and restrained from doing any act or thing whatsoever to interfere with the Receiver or to the possession of or management by the Receiver of the Assets or in any way to interfere with said Receiver, or to interfere in any manner during the

pendency of this proceeding with the exclusive jurisdiction of this Court over Defendant. This Order shall not stay or restrain any pending or future action whatsoever by any government agency or any representative on behalf of any government.

IT IS FURTHER ORDERED that the Receiver may rely on applicable exclusions or exemptions from registration under the Act in connection with the offer, purchase and/or sale of securities in and/or from the state of Oklahoma to discharge his duties under this Order.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over this matter and the Defendant for all purposes.

THIS ORDER IS ENTERED this 4th day of Nov, 2009, at 1:35 pm.

TWYLA MASON GRAY
Judge of the District Court

I, PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is 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 4 day of Nov, 2009.
By [Signature] PATRICIA PRESLEY, Court Clerk Deputy

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STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
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Case No. CJ 2009-10905

PETITION IN INTERVENTION

COMES NOW Christiana K. Roark ("Intervenor"), for her Petition in Intervention, alleges and states as follows:

1. On November 4, 2009 Plaintiff, Oklahoma Department of Securities, brought this action against the Estate of Bryan Roark.
2. Bryan Roark died on October 24, 2009. Intervenor is the widow of Bryan Roark.
3. On November 4, 2009 the Court entered an Order Freezing Assets and Appointing Receiver (the "Freeze Order").
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5. As the widow of Bryan Roark, Intervenor has, or may have, a legal and/or equitable interest in some, or all, of the Assets.

6. Intervenor had no knowledge of or participation in any of the wrongful acts which Plaintiff alleges were committed by Bryan Roark.

7. Intervenor's interest in the Assets should be determined and the Court should enter such orders as are necessary and appropriate to preserve and protect Intervenor's interest in the Assets.

WHEREFORE, premises considered, Intervenor respectfully requests that the Court determine her interest in the Assets and enter such other relief which this Court deems necessary or appropriate to preserve and protect her interest in the Assets.

Respectfully Submitted,

DUNN SWAN & CUNNINGHAM

By:

Clell I. Cunningham III, OBA #2093
2800 Oklahoma Tower
210 Park Avenue
Oklahoma City, Oklahoma 73102
(405) 235-8318

Attorneys for Intervenor

CERTIFICATE OF SERVICE

The undersigned certifies that on the ____ day of _____, 2009, a true and correct copy of the above and foregoing Petition in Intervention was mailed, postage prepaid, to:

Oklahoma Department of Securities
Jennifer Shaw
120 North Robinson, Suite 860
Oklahoma City, OK 73102

Douglas L. Jackson
Gongoll Jackson Law Firm
Post Office Box 1549
Enid, OK 73702
