

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

APR 21 2006

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
DEPUTY

Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )

v. )

Case No. CJ-2006-

**CJ - 2006 - 3311**

Farmers & Merchants Bank, an Oklahoma )  
banking entity; Farmers & Merchants )  
Bancshares, Inc., an Oklahoma corporation; )  
John V. Anderson, individually, as an officer )  
and director of Farmers & Merchants Bank, )  
and as a shareholder of Farmers & )  
Merchants Bancshares, Inc.; and John Tom )  
Anderson, individually, as an officer and )  
director of Farmers & Merchants Bank, and )  
as a shareholder of Farmers & Merchants )  
Bancshares, Inc., )  
 )  
Defendants. )

**PETITION**

Plaintiff, Oklahoma Department of Securities, *ex rel.* Irving L. Faught,  
Administrator, alleges and states as follows:

**DEFENDANTS**

1. **Farmers & Merchants Bank** (F&M Bank) is a state chartered bank located in Crescent, Oklahoma. F&M Bank also maintains locations in Yukon, Guthrie and Piedmont, Oklahoma. F&M Bank has a contractual relationship with Investment Centers of America, Inc., a registered broker-dealer. As part of that relationship,

Investment Centers of America, Inc. (Investment Centers of America) maintains offices in the Crescent and Guthrie banking locations. At least one individual serves as a dual employee of F&M Bank and Investment Centers of America.

2. **Farmers & Merchants Bancshares, Inc.** (Bancshares), an Oklahoma corporation, is the one-bank holding company of F&M Bank.

3. **John V. Anderson**, an individual, resides in or near Crescent, Oklahoma. John V. Anderson is, and at all times material hereto was, Chairman of the Board of Directors of F&M Bank. John V. Anderson and his wife own controlling interests in Bancshares.

4. **John Tom Anderson**, an individual, resides in or near Crescent, Oklahoma. John Tom Anderson is, and at all times material hereto was, President/CEO and a director of F&M Bank. John Tom Anderson, the son of John V. Anderson, owns an interest in Bancshares.

## **OVERVIEW**

5. At all times material hereto, Marsha Schubert, an individual, resided in or near Crescent, Oklahoma.

6. From May of 1992 to April of 2004, Marsha Schubert was registered as a broker-dealer agent and an investment adviser representative of AXA Advisors, LLC (AXA), a registered broker-dealer and investment adviser. AXA is a Delaware limited liability company with offices in the state of Oklahoma. Marsha Schubert was also a licensed insurance agent for an AXA affiliate.

7. In May of 2004, Marsha Schubert became registered as a broker-dealer agent of Wilbanks Securities, Inc., an Oklahoma corporation and registered broker-dealer.

8. At all times material hereto, Marsha Schubert owned and controlled account number 34-7477 at F&M Bank (Schubert F&M Account) and account number 35-9424 at F&M Bank (Kattails Account).

9. Marsha Schubert controlled other bank accounts including the Richard Schubert Farm account at BancFirst in Kingfisher, Oklahoma (Farm Account) and a Schubert and Associates account at BancFirst in Kingfisher, Oklahoma (Schubert BancFirst Account).

10. Beginning in or around January of 2000, through or around October 14, 2004 (the "Relevant Period"), Marsha Schubert, individually and doing business as Schubert and Associates, (collectively, "Marsha Schubert"), orchestrated a securities fraud in and from Crescent, Oklahoma. Marsha Schubert, promising large financial returns, accepted funds in excess of Two Hundred Million Dollars (\$200,000,000) for purported investment (the "Purported Investment Program"). The majority of the investment proceeds were deposited into the Schubert F&M Account. A portion of the money was deposited into the Kattails Account, the Farm Account or the Schubert BancFirst Account. Approximately 100 persons lost in excess of Nine Million Dollars (\$9,000,000) in the Purported Investment Program.

11. The securities fraud had two basic components: a) a "Ponzi" scheme in which most of the money entrusted to Marsha Schubert by participants in the Purported Investment Program was not invested in a legitimate venture, but instead, was paid out as

purported returns to other participants in the Purported Investment Program; and b) a check exchange scheme. The check exchange scheme involved a consistent movement of funds primarily between the accounts of three individuals, Lance Berry, Bob Mathews, and Marvin Wilcox, and the Schubert F&M Account. The scheme created a “float” that Marsha Schubert utilized to pay purported investment returns.

12. On October 14, 2004, the Oklahoma Department of Securities (Department) filed suit against Marsha Schubert in the District Court of Logan County, State of Oklahoma, for violations of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003), and the Oklahoma Securities Act (Predecessor Act), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (1991 & Supp. 2003) (Logan County Suit). The Department alleged, *inter alia*, that Marsha Schubert committed fraud in connection with the offer, sale, or purchase of securities.

#### ***The Securities Fraud***

13. On November 15, 2004, upon the stipulation and consent of Marsha Schubert, the Logan County District Court entered a permanent injunction against Marsha Schubert. *Oklahoma Department of Securities ex rel. Irving L. Faught, Administrator v. Marsha Schubert, et al.*, CJ 2004-256.

14. On May 5, 2005, Marsha Schubert entered a plea of guilty in the United States District Court for the Western District of Oklahoma to one count of money laundering in connection with the Purported Investment Program. *United States of America v. Marsha Kay Schubert*, CR 05-078.

15. On September 9, 2005, Marsha Schubert entered a plea of guilty in the District Court of Logan County, State of Oklahoma, to fourteen (14) counts of obtaining

money by false pretenses in connection with the Purported Investment Program. *State of Oklahoma v. Marsha Kay Schubert*, No. CF-2004-391. Marsha Schubert stated as the factual basis for her plea that she obtained money in a “Ponzi” scheme in which she promised that the funds would be invested but instead, used the funds to pay prior investors involved in the Purported Investment Program.

***Defendants’ Assistance in Securities Fraud***

16. Defendants and their agents materially aided and/or participated in Marsha Schubert’s acts, practices, and course of business that operated as a fraud upon other persons by: a) clearing checks written on uncollected funds, thereby providing Marsha Schubert with millions of dollars in unsecured loans and the financial ability to extend the life of the Purported Investment Program; b) making loans to Marsha Schubert for purported purchases of cattle, vehicles, equipment, a mobile home, and real estate, and then depositing the loan proceeds into the Schubert F&M Account, allowing Marsha Schubert to further the “Ponzi” scheme; c) requesting deposits from Marsha Schubert to cover overdrafts when, in fact, Marsha Schubert did not have the means and ability to cover overdraft payments, other than by misappropriating the monies of others; d) preventing the discovery of the truth and bolstering Marsha Schubert’s credibility through the illusion of a prospering and legitimate investment venture; e) referring bank customers and other individuals to participate in the Purported Investment Program; and f) assisting bank customers in participating in the Purported Investment Program.

17. In 1996, the Office of the Comptroller of the Currency issued Advisory Letter 96-6 citing examples of suspicious circumstances that may indicate a check kite. The Comptroller states the underlying premise of a check kite as “the customer’s ability

to gain access to deposited funds before they are collected from the institution on which they are drawn.” The suspicious circumstances include the following:

- a. several accounts with similar names, owned or controlled by the same individuals
- b. regular or excessive drawings against uncollected funds
- c. frequent daily negative ending balances or overdrafts that eventually clear or are covered in a short time frame
- d. identifiable patterns of transactions such as deposits, transfers between accounts, withdrawals, and wire transfers, often with similar or increasing amounts
- e. deposits of large checks drawn on out-of-area banks
- f. frequent requests by the customer for account balances, collected items, or cleared items
- g. frequent, large deposits drawn on the same institution
- h. deposits drawn on other institutions by the same maker or signer
- i. large debits and credits of even dollar amounts
- j. frequent check withdrawals to the same institution, with the maker listed as payee
- k. a low average daily balance in relation to deposit activity
- l. a low collected fund balance in relation to the book balance
- m. a volume of activity or large debits and credits inappropriate in relation to the nature of the business of the account holder involved

18. At least ten (10) of the thirteen (13) warning signs listed in paragraph 17 above were manifested in the activities of Marsha Schubert through the F&M accounts she controlled.

19. Pursuant to Section 1-509 of the Act and Section 408 of the Predecessor Act, Defendants are liable, jointly and severally with and to the same extent as Marsha Schubert, for the securities fraud.

### **JURISDICTION AND VENUE**

20. The Administrator of the Department brings this action pursuant to Section 1-603 of the Act and is a proper party to bring such action against the Defendants. This Court has jurisdiction over the parties and the subject matter of this action.

21. Venue is proper in this county.

**Non-Defendants Associated with F&M Bank**

22. **Edward Stanton** (Stanton), an individual, resides in or near Crescent, Oklahoma. Stanton worked at F&M Bank for approximately ten (10) years. At the time of his resignation from the bank in March of 2004, and at all previous times material hereto, Stanton was Senior Vice President and Secretary of F&M Bank. Stanton had lending authority and was responsible for regulatory compliance, internal controls, and security for F&M Bank. Prior to 2003, Stanton was the designated Bank Secrecy Act officer (BSA Officer) for F&M Bank. Stanton was employed as a state banking examiner prior to his employment at F&M Bank.

23. **Chad Johnson** (Johnson), an individual, resides in or near Crescent, Oklahoma. Johnson is Senior Vice President and a loan officer at F&M Bank. Johnson previously held the position of Assistant Vice President of F&M Bank. At all times material hereto, Johnson was the assigned loan officer for Marsha Schubert.

24. **Justin Tarrant** (Tarrant), an individual, resides in or near Crescent, Oklahoma. At the time of his resignation from the bank in March of 2004, and at all previous times material hereto, Tarrant was employed as a loan officer at F&M Bank. Tarrant resigned his position at F&M Bank to work with Marsha Schubert as a registered agent of AXA.

25. **Beth Armer** (Armer), an individual, resides in or near Crescent, Oklahoma. At all times material hereto, Armer was a teller at F&M Bank. Armer and Marsha Schubert previously worked together at the Guthrie Savings & Loan.

26. Prior to April 2004, John V. Anderson, John Tom Anderson, Stanton, Johnson and Tarrant composed the F&M Bank Loan Committee (Loan Committee). After the resignations of Stanton and Tarrant from the bank, John V. Anderson, John Tom Anderson and Johnson continued to serve on the Loan Committee.

27. Stanton, Johnson, Tarrant and Armer personally benefited from the Purported Investment Program. Stanton, Johnson, Tarrant and Armer received distributions from the Purported Investment Program in amounts that exceeded the principal amounts, if any, transferred to Marsha Schubert for their participation in the program.

28. Stanton contributed nothing to the Purported Investment Program and received in excess of One Hundred Four Thousand (\$104,000) in distributions.

29. Johnson contributed nothing to the Purported Investment Program and received in excess of Thirty-Five Thousand Dollars (\$35,000) in distributions.

30. Tarrant contributed nothing to the Purported Investment Program and received in excess of Forty-Nine Thousand (\$49,000) in distributions.

31. Armer contributed approximately Seventy-Five Thousand Dollars (\$75,000) to the Purported Investment Program and received in excess of One Hundred Fifty Thousand Dollars (\$150,000) in distributions.

32. Stanton, Tarrant and Armer are named as relief defendants in a civil suit pending in Oklahoma County brought by the Plaintiff on the theory of unjust enrichment. *Oklahoma Department of Securities, et al. v. Robert Mathews, et al.*, CJ 2005-3796 (the “Oklahoma County Relief Defendant Case”). Johnson was also named as a relief



- March 18, 2000 through April 18, 2000 \$ 2,934.00
- April 19, 2000 through May 18, 2000 \$ 673.00

37. After May 18, 2000, the average daily balance in the Schubert F&M Account increased dramatically, reaching a high of Two Hundred Seven Thousand One Hundred Seventy Dollars (\$207,170) for the statement period ended October 17, 2003.

38. As summarized below, between January 2000 and October 2004, deposits totaling Two Hundred Sixty-Seven Million Four Hundred Fifty-Four Thousand Eight Hundred Eighty-Three Dollars (\$267,454,883) were made into the Schubert F&M Account. Between January 2000 and October 2004, disbursements from the Schubert F&M Account totaled Two Hundred Sixty-Seven Million Four Hundred Eight Thousand Four Hundred Ninety-One Dollars (\$267,408,491).

TIME PERIOD	DEPOSITS TO SCHUBERT F&M ACCOUNT	DISBURSEMENTS FROM SCHUBERT F&M ACCOUNT
January 2000 – October 2004	\$267,454,883	\$267,408,491

39. The volume and level of activity in the Schubert F&M Account peaked during the thirty (30) day period between October 18, 2003, and November 18, 2003, when in excess of Twenty-Nine Million Dollars (\$29,000,000) was deposited into the Schubert F&M Account and disbursed from the Schubert F&M Account.

**The “Ponzi” Scheme**

40. As she accepted money for purported “investment” purposes, Marsha Schubert operated a classic “Ponzi” scheme. Marsha Schubert did not make the investments that she represented she would make, but instead, used the money to make distributions to other persons. Marsha Schubert falsely represented such distributions as investment profits.

41. In furtherance of the scheme, Marsha Schubert created periodic account statements for participants that showed exceptional, although entirely fictitious, returns. In other instances, Marsha Schubert verbally reported the fictitious returns to participants. When a participant requested a “withdrawal,” the request was honored primarily by using money Marsha Schubert had received from more recent participants in the Purported Investment Program.

### **The Beginning of the “Ponzi” Scheme**

42. The origin of the Purported Investment Program is believed to be attributable to a long-term relationship between Marsha Schubert and Ella Carr, an Oklahoma resident. Following Ella Carr’s divorce, Marsha Schubert suggested to Ms. Carr that she invest in cattle to graze on the acres of grass growing adjacent to her home and then sell the cattle for a profit.

43. At Marsha Schubert’s request, and for the benefit of Ella Carr, Richard Schubert, the husband of Marsha Schubert, purchased, vaccinated, and transported a few head of cattle to Wewoka, Oklahoma. Ella Carr paid for the cattle but did not reimburse Richard Schubert for his time or out-of-pocket expenses. Subsequently, Ella Carr sold some of the cattle at auction for a profit.

44. Due to the return received on her first cattle investment, Ella Carr advised Marsha Schubert that she wanted to make another investment in cattle so long as Richard Schubert assisted with the logistics. Instead of asking for her husband’s assistance, Marsha Schubert told Ella Carr that cattle were purchased on her behalf and that the cattle would graze on the Schuberts’ property until taken to auction. In fact, no cattle were purchased.

45. Marsha Schubert made disbursements to Ella Carr utilizing funds from the Farm Account or the proceeds of loans made by F&M Bank to Marsha Schubert. Marsha Schubert falsely represented the payments to Ella Carr as purported profits from the second cattle investment and falsely represented that additional purported profits were reinvested in additional cattle.

46. Marsha Schubert repeated the scenario described above a number of times. During the Relevant Period, Ella Carr received approximately Ninety-Nine Thousand Dollars (\$99,000) from Marsha Schubert for which Ella Carr gave no consideration.

47. Kathleen Gibson and Janice Fagg, Oklahoma residents and friends of Ella Carr, learned of Ms. Carr's purported investment returns and invested with Marsha Schubert. Kathleen Gibson and Janice Fagg were both widows at the time.

48. Kathleen Gibson and Janice Fagg deposited money with Marsha Schubert to invest in cattle and received purported profits on the sale of cattle that were never purchased by Marsha Schubert on their behalf.

49. During the Relevant Period, Marsha Schubert accepted in excess of Seven Hundred Eighty-Nine Thousand Dollars (\$789,000) from Kathleen Gibson for purported cattle investments. Over the same time period, Marsha Schubert paid Kathleen Gibson in excess of One Million Dollars (\$1,000,000) as purported profits from the sale of cattle.

50. During the Relevant Period, Marsha Schubert accepted Seventy-Six Thousand Eight Hundred Five Dollars (\$76,805) from Janice Fagg for purported cattle investments. Over the same time period, Marsha Schubert paid Janice Fagg in excess of One Hundred Ninety-Seven Thousand Dollars (\$197,000) as purported profits from the sale of cattle.

51. Ella Carr, Kathleen Gibson and Janice Fagg are named as relief defendants in the Oklahoma County Relief Defendant Case.

### **The Continuation of the “Ponzi” Scheme**

52. The “Ponzi” scheme gained momentum when W.R. Mathews and Johnny Stanbrough became involved with Marsha Schubert.

53. In or around May of 2000, W.R. Mathews and his son, Robert “Bob” Mathews, both Oklahoma residents, approached Marsha Schubert after an account W.R. Mathews maintained at another investment firm suffered a significant loss in value. W.R. Mathews received an amount in settlement from that firm, which was deposited with Marsha Schubert to invest in hopes of recovering the amount of money previously lost. The money was deposited into an AXA account styled “W.R. Mathews Trust.”

54. In or around May of 2000, Marsha Schubert opened an AXA account styled “Betty R. Mathews Trust.” Betty R. Mathews is the deceased wife of W.R. Mathews.

55. In addition to her authority over the AXA accounts for the W.R. Mathews Trust and the Betty R. Mathews Trust (collectively, the “Mathews Trusts”) during the Relevant Period, Marsha Schubert exclusively controlled the bank accounts for the Mathews Trusts at Gold Bank in Kingfisher, Oklahoma. Marsha Schubert maintained physical control of the checkbooks, determined the amount of each disbursement from the accounts, and filled out blank checks previously signed by W.R. Mathews, in the amounts she determined, for deposit in accounts controlled by her, including the Schubert F&M and Kattails Accounts.

56. Marsha Schubert made monthly payments to W.R. Mathews that she falsely represented to be investment profits from his AXA account. In fact, such payments were made from Marsha Schubert's personal bank account or other bank accounts controlled by or accessible to Marsha Schubert.

57. On or about September 6, 2000, Johnny Stanbrough, who at the time was an Oklahoma resident and friend of W.R. Mathews, deposited Thirty Thousand Dollars (\$30,000) with Marsha Schubert for her to invest on his behalf. The money was deposited into the Schubert F&M Account. No securities were purchased by Marsha Schubert with this money.

58. During the Relevant Period, Marsha Schubert exclusively controlled the bank account of Johnny Stanbrough who suffered from cancer. Marsha Schubert maintained physical control of the checkbook, determined the amount of each disbursement from the account, and filled out blank checks previously signed by Johnny Stanbrough, in the amounts she determined, for deposit in accounts controlled by her, including the Schubert F&M and Kattails Accounts.

59. On or about September 14, 2000, the W.R. Mathews Trust deposited Forty Thousand Dollars (\$40,000) with Marsha Schubert for her to invest on his behalf. The money was deposited into the Schubert F&M Account. Seven Thousand Dollars (\$7,000) was simultaneously deducted from the deposit and transferred to the Kattails Account, for a net deposit to the Schubert F&M Account of Thirty-Three Thousand Dollars (\$33,000). No securities were purchased by Marsha Schubert with the Forty Thousand Dollars (\$40,000).

60. On or about November 13, 2000, a total of Fifty-Five Thousand Dollars (\$55,000) from the Mathews Trusts was deposited into the Schubert F&M Account. On or about November 14, 2000, Forty-Five Thousand Dollars (\$45,000) from Johnny Stanbrough was deposited into the Schubert F&M Account. Those deposits covered, *inter alia*, a check written on November 9, 2000, in the amount of Seventy-Two Thousand One Hundred Eighty-Four Dollars (\$72,184) payable to Kathleen Gibson, and a check written on November 11, 2000, in the amount of Twenty Thousand Dollars (\$20,000) to purchase a tractor from P and K Implement. The check to P and K Implement cleared the Schubert F&M Account on November 14, 2000. The check to Kathleen Gibson cleared the Schubert F&M Account on November 17, 2000.

61. The following sequence of events provides another illustration of the early workings of the fraudulent “Ponzi” scheme orchestrated by Marsha Schubert:

- (a) On or about March 8, 2001, Marsha Schubert accepted Thirty Thousand Dollars (\$30,000) from R. Walker (Walker), an Oklahoma resident. The money was deposited into the Schubert F&M Account. Two Thousand Dollars (\$2,000) was simultaneously deducted from the deposit and transferred to the Kattails Account, for a net deposit of Twenty-Eight Thousand Dollars (\$28,000) to the Schubert F&M Account.
- (b) On or about March 9, 2001, Marsha Schubert accepted Thirty-Five Thousand Dollars (\$35,000) from R. Hedrick (Hedrick), an Oklahoma resident. The money was deposited into the Schubert F&M Account. The opening balance in the Schubert F&M

Account on March 9, 2001, was Four Thousand Nine Hundred Eighty-Six Dollars and Thirty-Six Cents (\$4,986.36).

(c) From March 9, 2001 to March 20, 2001, Marsha Schubert used the Walker and Hedrick funds as follows:

(1) to make disbursements totaling more than Forty Thousand Dollars (\$40,000) to participants in the Purported Investment Program: \$8,500 to the W.R. Mathews Trust, \$16,000 to Johnny Stanbrough, \$8,500 to the Betty R. Mathews Trust, \$1,000 to Ella Carr, and at least \$7,500 to other participants;

(2) to make three loan payments to F&M Bank totaling \$7,017.17, and to pay \$44.95 in miscellaneous fees to F&M Bank; and

(3) to pay personal, farming, and Kattails expenses.

62. As deposits to Marsha Schubert from the accounts of the Mathews Trusts and Johnny Stanbrough became more frequent, a pattern developed whereby Marsha Schubert received an amount of money from one or more of the accounts on a given day and then returned a disbursement of a similar or increasing amount very soon thereafter. The following sequence of transactions through the Schubert F&M Account illustrates this pattern with respect to Johnny Stanbrough:

<b>Transaction Date</b>	<b>Funds From Stanbrough</b>	<b>Disbursements To Stanbrough</b>
February 11, 2002	\$32,020.40	
February 13, 2002		\$32,989.00
February 19, 2002		\$ 2,687.30
February 20, 2002	\$36,600.00	

Transaction Date	Funds From Stanbrough	Disbursements To Stanbrough
February 25, 2002		\$37,782.42
March 5, 2002	\$46,282.00	
March 6, 2002		\$48,282.00
March 13, 2002	\$15,000.00	
March 13, 2002		\$15,424.84
March 18, 2002	\$15,284.00	
March 18, 2002		\$ 2,955.17
March 19, 2002		\$13,884.00
April 1, 2002	\$52,480.00	
April 2, 2002		\$53,580.00
April 8, 2002	\$14,893.50	
April 9, 2002		\$15,002.40

63. The primary sources of the funding of the disbursements from the Schubert F&M Account to Johnny Stanbrough listed in paragraph 62 above were deposits to the Schubert F&M Account from the Farm Account, other participants in the Purported Investment Program, and Johnny Stanbrough himself.

64. The perceived success of the Purported Investment Program enhanced the credibility of Marsha Schubert with existing participants as well as potential participants in the program. Over the course of many months, the magnitude of the scheme, in terms of dollar amounts, the number of transactions, and the number of participants, dramatically increased.

65. Bob Mathews, Marvin Wilcox, and Lance Berry eventually replaced Johnny Stanbrough and the Mathews Trusts as the major participants in the check exchange scheme.

**The Check Exchange Scheme**

66. **Robert “Bob” Mathews** (Mathews), an individual, resides in or near Crescent, Oklahoma. Mathews is the son of W.R. and Betty Mathews. Mathews

maintained a checking account at NBanC in Kingfisher, Oklahoma (NBanC), through which Marsha Schubert conducted purported day trading<sup>1</sup> and/or options trading on his behalf (Mathews NBanC Account). At times material hereto, Mathews maintained an AXA account for which Marsha Schubert acted as his broker.

67. During the Relevant Period, Marsha Schubert exclusively controlled the Mathews NBanC Account. Marsha Schubert maintained physical control of the checkbook, determined the amount of each disbursement from the account, and filled out blank checks previously signed by Mathews, in the amounts she determined, for deposit into accounts controlled by her, including the Schubert F&M and Kattails Accounts. As more fully described below, on or about November 10, 2003, Mathews opened a checking account at F&M Bank through which Marsha Schubert conducted the same activity for less than thirty (30) days.

68. During the Relevant Period, F&M Bank also maintained a lending relationship with Mathews.

69. **Marvin Wilcox** (Wilcox), an individual, resides in or near Kingfisher, Oklahoma. Until his retirement at the end of calendar year 2002, Wilcox served as a Vice President of NBanC. Wilcox maintained a checking account at NBanC, through which Marsha Schubert conducted purported day trading and options trading on his behalf (Wilcox NBanC Account). At times material hereto, Wilcox maintained an AXA account for which Marsha Schubert acted as his broker.

70. During the Relevant Period, Marsha Schubert exclusively controlled the Wilcox NBanC Account. Marsha Schubert maintained physical control of the checkbook, determined the amount of each disbursement from the account, and filled out

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<sup>1</sup> Day trading is the purchase and sale of a particular securities position on the same day.

blank checks previously signed by Wilcox, in the amounts she determined, for deposit into accounts controlled by her, including the Schubert F&M and Kattails Accounts. As more fully described below, on or about November 10, 2003, Wilcox opened a checking account at F&M Bank through which Marsha Schubert conducted the same activity for less than thirty (30) days.

71. **Lance Berry** (Berry), an individual, resides in or near Edmond, Oklahoma. Berry maintained a checking account at NBanC, through which Marsha Schubert conducted purported day trading and options trading on his behalf (Berry NBanC Account). At times material hereto, Berry maintained an AXA account for which Marsha Schubert acted as his broker.

72. During the Relevant Period, Marsha Schubert exclusively controlled the Berry NBanC account. Marsha Schubert maintained physical control of the checkbook, determined the amount of each disbursement from the account, and filled out blank checks previously signed by Berry, in the amounts she determined, for deposit into accounts controlled by her, including the Schubert F&M and Kattails Accounts. As more fully described below, on or about November 12, 2003, Berry opened a checking account at F&M Bank through which Marsha Schubert conducted the same activity for a brief period of time.

73. The exchange of checks between Marsha Schubert and Matthews, Wilcox and Berry contributed significantly to the perpetuation of the securities fraud.

### **Bob Mathews**

74. Between September 11, 2001 and October 6, 2004 (the “Mathews Relevant Period”), there were over nine hundred fifty (950) transactions in the Schubert

F&M and Kattails Accounts between Marsha Schubert and Mathews. The deposits to Marsha Schubert from Mathews totaled in excess of Eighty-Six Million Dollars (\$86,000,000). Disbursements from Marsha Schubert to Mathews totaled in excess of Eighty-Seven Million Dollars (\$87,000,000).

75. With rare exception, on each and every banking day between August 27, 2002 and February 13, 2004, at least one wire or check drawn from a Mathews checking account was cleared through the Schubert F&M Account. These checks and wires ranged in amount from Six Thousand Eight Hundred Dollars (\$6,800) to Four Hundred Eighty-Eight Thousand Dollars (\$488,000).

76. With rare exception, on each and every banking day between August 27, 2002 and February 13, 2004, at least one wire or check was transmitted from or drawn on the Schubert F&M Account payable to Mathews. These checks and wires ranged in amount from Six Thousand Nine Hundred Dollars (\$6,900) to Five Hundred Thirty-One Thousand Dollars (\$531,000).

77. As illustrated by the chart attached hereto as Exhibit A, for the statement periods ended October 17, 2003, and November 18, 2003, the average amount of the checks from Mathews that cleared the Schubert F&M Account was Three Hundred Eighty-Seven Thousand Nine Hundred Sixty-One Dollars (\$387,961). During the same period, the average amount of checks to Mathews that cleared the Schubert F&M Account was Four Hundred Twenty Thousand Four Hundred Twenty-Five Dollars (\$420,425).

78. During the Mathews Relevant Period, less than ten (10) of the over nine hundred fifty (950) transactions resulted in a disbursement by Marsha Schubert to a

brokerage, investment, or clearing firm for the purchase of a security or other investment on behalf of or for the benefit of Mathews. Those transactions involved wire transmissions from F&M Bank to DLJ Pershing, the clearing firm for AXA, in amounts totaling less than One Hundred Thousand Dollars (\$100,000).

79. Mathews is named as a defendant in the Oklahoma County Relief Defendant Case for being unjustly enriched in an amount in excess of Five Hundred Twenty Thousand Dollars (\$520,000).

### **Marvin Wilcox**

80. Between December 12, 2002 and October 6, 2004 (the “Wilcox Relevant Period”), there were in excess of six hundred fifty (650) transactions in the Schubert F&M and Kattails Accounts between Marsha Schubert and Wilcox. The check exchange between Marsha Schubert and Marvin Wilcox was initiated following the death of Johnny Stanbrough in early December 2002. The deposits to Marsha Schubert from Wilcox totaled in excess of Seventy-Seven Million Dollars (\$77,000,000). Disbursements from Marsha Schubert to Wilcox totaled in excess of Seventy-Eight Million Dollars (\$78,000,000).

81. With rare exception, on each and every banking day between December 12, 2002 and February 9, 2004, at least one wire or check drawn from a Wilcox checking account was cleared through the Schubert F&M Account. These checks and wires ranged in amount from Seven Thousand Two Hundred Dollars (\$7,200) to Four Hundred Eighty-Eight Thousand Dollars (\$488,000).

82. With rare exception, on each and every banking day between December 12, 2002 and February 9, 2004, at least one wire or check was transmitted from or drawn

on the Schubert F&M Account payable to Wilcox. These checks and wires ranged in amount from Five Hundred Dollars (\$500) to Five Hundred Thirty-One Thousand Dollars (\$531,000).

83. As illustrated by the chart attached hereto as Exhibit B, for the statement periods ended October 17, 2003, and November 18, 2003, the average amount of the checks from Wilcox that cleared the Schubert F&M Account was Three Hundred Ninety-One Thousand Four Hundred Eighty-Six Dollars (\$391,486). During the same period, the average amount of the checks to Wilcox that cleared the Schubert F&M Account was Four Hundred Five Thousand Four Hundred Ninety-Two Dollars (\$405,492).

84. During the Wilcox Relevant Period, approximately thirty (30) of the six hundred fifty (650) transactions resulted in a disbursement by Marsha Schubert to a brokerage, investment, or clearing firm for the purchase of a security or other investment on behalf or for the benefit of Wilcox. These transactions involved wire transmissions from F&M Bank to DLJ Pershing, the clearing firm for AXA, in amounts totaling less than One Hundred Thousand Dollars (\$100,000).

85. Wilcox is named as a defendant in the Oklahoma County Relief Defendant Case for being unjustly enriched in an amount in excess of Five Hundred Thousand Dollars (\$500,000).

### **Lance Berry**

86. Between April 8, 2003 and October 6, 2004 (the “Berry Relevant Period”), there were over six hundred fifty (650) transactions in the Schubert F&M and Kattails Accounts between Marsha Schubert and Berry. The deposits to Marsha Schubert from Berry totaled in excess of Fifty-Seven Million Three Hundred Thousand Dollars

(\$57,300,000). Disbursements from Marsha Schubert to Berry totaled in excess of Fifty-Seven Million Three Hundred Thousand Dollars (\$57,300,000).

87. With rare exception, on each and every banking day between April 8, 2003 and February 13, 2004, at least one wire or check drawn from a Berry checking account was cleared through the Schubert F&M Account. These checks and wires ranged in amount from Seven Thousand Two Hundred Dollars (\$7,200) to Four Hundred Ninety Thousand Dollars (\$490,000).

88. With rare exception, on each and every banking day between April 8, 2003 and February 13, 2004, at least one wire or check was transmitted from or drawn on the Schubert F&M Account payable to Berry. These checks ranged in amount from Twenty-Four Thousand Eight Hundred Twenty-Four Dollars (\$24,824) to Four Hundred Ninety-One Thousand Dollars (\$491,000).

89. As illustrated by the chart attached hereto as Exhibit C, for the statement periods ended October 17, 2003, and November 18, 2003, the average amount of the checks from Berry that cleared through the Schubert F&M Account was Three Hundred Ninety-Five Thousand Five Hundred Dollars (\$395,500). During the same period, the average amount of the checks to Berry that cleared the Schubert F&M Account was Four Hundred Forty Thousand Nine Hundred Thirty-Five Dollars (\$440,935).

90. During the Berry Relevant Period, less than fifteen (15) of the over six hundred fifty (650) transactions resulted in a disbursement by Marsha Schubert to a brokerage, investment, or clearing firm for the purchase of a security or other investment on behalf of or for the benefit of Berry. Those transactions involved wire transmissions

from F&M Bank to DLJ Pershing, the clearing firm for AXA, in amounts totaling less than One Hundred Thousand Dollars (\$100,000).

91. Berry is named as a defendant in the Oklahoma County Relief Defendant Case for being unjustly enriched in an amount in excess of Thirty-Three Thousand Dollars (\$33,000).

**F&M Bank's Conduct**

92. The Defendants materially aided and/or participated in Marsha Schubert's fraudulent course of conduct – conduct that occurred over an extensive period of time, that is, from January of 2000 to October of 2004.

93. The standard operating procedures at F&M Bank include a meeting of the bank's Loan Committee each morning. The Loan Committee reviews the bank's business from the previous banking day to include loans made, overdrafts, insufficient items, accounts with uncollected balances, and "large items."

94. F&M Bank defines a "large item" as any deposit or withdrawal, by check, cash, or wire, in an amount greater than \$2,500 ("Large Item").

95. All outgoing wire transfers required the prior approval of a bank officer. During the Relevant Period, John V. Anderson, John Tom Anderson, Stanton and Johnson approved outgoing wire transfers.

96. During the Relevant Period, thousands of transactions were cleared through the Schubert F&M Account involving amounts greater than \$2,500. These transactions were subject to the review of the individual Defendants in their capacities as members of the Loan Committee and/or in their capacities as senior management of the bank.

***F&M Bank’s Knowledge and Assistance***

97. As described more fully below, Defendants’ assistance to Marsha Schubert was unusual in character, scope and degree; Defendants’ assistance did not involve routine or normal banking practices.

98. While the Loan Committee reviewed the “Large Items” in and out of the Schubert F&M and Kattails Accounts on a daily basis, the Defendants ignored numerous “red flags” and suspicious circumstances.

**A. Volume of Activity**

99. As illustrated by the chart below, the volume of activity in the Schubert F&M Account, in terms of number and dollar amount of debit and credit transactions, dramatically increased over the course of the Relevant Period:

<b>Banking Cycle Ended</b>	<b>Number of Deposits/ Credits</b>	<b>Total Amount of Deposits/Credits</b>	<b>Number of Checks/ Debits</b>	<b>Total Amount of Checks/Debits</b>
01/18/00	17	\$23,328.78	63	\$17,267.35
02/18/00	11	\$26,032.48	76	\$32,070.48
03/17/00	5	\$8,306.67	57	\$11,722.22
04/18/00	18	\$45,172.15	101	\$42,148.10
05/18/00	19	\$66,656.63	117	\$67,601.71
06/16/00	7	\$10,038.79	62	\$16,559.52
7/18/00	9	\$13,549.86	42	\$6,613.60
08/17/00	14	\$56,147.79	92	\$54,545.53
09/18/00	7	\$82,521.65	82	\$55,987.63
10/18/00	11	\$73,074.61	115	\$96,146.12
11/17/00	19	\$147,843.16	93	\$151,625.15
12/18/00	13	\$63,679.04	55	\$65,586.06
01/18/01	13	\$86,700.44	62	\$97,675.49
02/16/01	15	\$60,778.30	48	\$53,517.58
03/16/01	10	\$81,807.92	70	\$67,434.37
04/18/01	13	\$55,550.91	68	\$65,387.72
05/17/01	20	\$85,016.43	103	\$76,892.19
06/18/01	11	\$52,721.21	82	\$60,990.68
07/18/01	20	\$105,244.56	83	\$108,189.35

<b>Banking Cycle Ended</b>	<b>Number of Deposits/ Credits</b>	<b>Total Amount of Deposits/Credits</b>	<b>Number of Checks/ Debits</b>	<b>Total Amount of Checks/Debits</b>
08/17/01	12	\$143,897.74	69	\$132,899.01
09/18/01	16	\$233,771.89	67	\$241,772.30
10/18/01	8	\$438,157.74	93	\$408,354.86
11/16/01	17	\$207,642.50	69	\$220,322.85
12/18/01	19	\$253,211.01	97	\$262,799.47
01/17/02	11	\$211,471.18	81	\$217,976.29
02/15/02	18	\$154,818.58	77	\$155,861.86
03/18/02	22	\$595,677.23	99	\$568,996.26
04/18/02	20	\$546,295.00	122	\$564,751.97
05/17/02	22	\$721,007.70	112	\$716,298.16
06/18/02	22	\$460,444.03	106	\$439,977.04
07/18/02	22	\$1,448,755.83	141	\$1,479,353.59
08/16/02	21	\$1,833,352.08	121	\$1,835,376.76
09/18/02	31	\$3,608,657.47	188	\$3,606,969.81
10/17/02	27	\$5,356,593.96	237	\$5,343,227.62
11/18/02	24	\$7,835,486.81	223	\$7,790,529.25
12/18/02	24	\$11,651,623.63	231	\$11,523,012.18
01/16/03	27	\$13,042,798.44	182	\$13,102,759.89
02/18/03	33	\$10,191,331.03	152	\$10,229,044.80
03/18/03	24	\$10,190,719.81	142	\$10,184,310.86
04/18/03	26	\$13,354,948.00	156	\$13,392,688.68
05/16/03	22	\$14,913,106.00	169	\$14,928,209.90
06/18/03	27	\$19,334,262.26	157	\$18,890,451.04
07/17/03	32	\$18,648,777.18	160	\$19,124,025.89
08/18/03	38	\$21,409,096.97	175	\$21,356,556.70
09/18/03	60	\$26,525,252.38	211	\$26,419,019.14
10/17/03	60	\$26,778,633.88	173	\$26,864,589.70
11/18/03	58	\$29,001,807.80	211	\$29,024,398.36
12/18/03	45	\$6,907,041.09	180	\$6,951,448.60
01/16/04	39	\$5,318,936.09	145	\$5,328,318.82
02/18/04	37	\$5,135,517.60	156	\$5,131,983.28
03/18/04	25	\$387,099.38	122	\$374,139.83
04/16/04	35	\$779,584.52	151	\$585,144.15
05/18/04	38	\$1,272,643.67	166	\$1,310,530.01
06/03/04	14	\$658,585.23	97	\$822,649.95
06/17/04	14	\$387,164.64	81	\$365,708.90
07/16/04	36	\$1,016,135.60	200	\$1,034,801.46
08/17/04	34	\$1,242,016.98	181	\$1,254,813.52
09/17/04	40	\$1,592,169.08	194	\$1,560,267.65
10/15/04	41	\$2,522,219.66	200	\$2,516,190.42
<b>Totals</b>	<b>1,393</b>	<b>\$267,454,883.05</b>	<b>7,365</b>	<b>\$267,408,491.68</b>

100. During the first ten (10) months of the Relevant Period, the amount of money deposited into the Schubert F&M Account was less than Eighty-Three Thousand Dollars (\$83,000) in any one month.

101. During the monthly banking cycle ended October 18, 2001, the amount of money flowing into the Schubert F&M Account was approximately Four Hundred Thirty-Eight Thousand One Hundred Fifty Dollars (\$438,150).

102. Between November 19, 2002 and December 18, 2002, the deposits and other credits to the Schubert F&M Account totaled in excess of Eleven Million Six Hundred Fifty Thousand Dollars (\$11,650,000).

103. The deposits to the Schubert F&M Account exceeded Twenty-Nine Million Dollars (\$29,000,000) during the monthly banking cycle ended November 18, 2003. That number dramatically decreases to approximately One Million Thirty Thousand Dollars (\$1,030,000) when the check exchange transactions with Berry, Mathews and Wilcox are excluded. The check exchange activity accounted for approximately ninety-six percent (96%) of the deposits into the Schubert F&M Account during the banking cycle ended November 18, 2003.

104. During the monthly banking cycle ended November 18, 2003, the disbursements from the Schubert F&M Account totaled in excess of Twenty-Nine Million Dollars (\$29,000,000). That number dramatically decreases to approximately Four Hundred Eight Thousand Dollars (\$408,000) when the check exchange transactions with Berry, Mathews and Wilcox are excluded. The check exchange activity accounted for approximately ninety-eight percent (98%) of the disbursements from the Schubert F&M Account during the banking cycle ended November 18, 2003.

105. Over the course of nearly five (5) years, in excess of Two Hundred Sixty-Seven Million Dollars (\$267,000,000) flowed into the Schubert F&M Account and then out of the account.

106. While the volume of activity in the Schubert F&M Account increased, there are no corresponding deposits into the account of commission checks from AXA reflecting increased investment activities by Marsha Schubert.

107. The Defendants accepted the explanation that Berry, Mathews, and Wilcox were day trading securities through Marsha Schubert. However, the increased volume in the Schubert F&M Account was, in fact, due to “check trading” as described in paragraphs 66 through 90 above. This activity peaked at alarming levels between December 2002 and November 2003 – a time during which F&M Bank allowed Marsha Schubert to operate on uncollected funds.

**B. Uncollected Funds**

108. F&M Bank allowed Marsha Schubert to operate on uncollected funds, that is, to use funds that were deposited in the Schubert F&M Account by checks that had not yet been cleared through the check collection process and paid by the drawee banks. During the Relevant Period, financial institutions typically placed a temporary hold on their customers’ uncollected funds, making those funds unavailable for withdrawal until the time period of the hold expires.

109. F&M Bank allowed Marsha Schubert to operate on higher amounts of uncollected funds than other bank customers. F&M Bank allowed Marsha Schubert to transfer funds by wire and to purchase cashier’s checks utilizing uncollected funds,

thereby risking a loss in the amount of the wire or cashier's check if the funds were never collected.

110. In more than one Loan Committee meeting during the Relevant Period, John V. Anderson raised the issue of the uncollected balances in the Schubert F&M Account, and specifically, the frequency and level of such uncollected balances. John V. Anderson expressed concerns that Marsha Schubert was using "the float" as part of her business practices.

111. During the Relevant Period, John V. Anderson monitored the Schubert F&M Account as often as daily by reviewing reports and statements generated by the bank and deposit items. On more than one occasion, John V. Anderson directed F&M Bank tellers to defer the processing of deposits made by Marsha Schubert into the Schubert F&M Account until after his review of the deposit items.

112. On more than one occasion, the Defendants requested that Marsha Schubert make deposits to cover overdrafts in her accounts. Such requests were made by the Defendants with knowledge that Marsha Schubert did not have the means and ability to cover overdraft payments, other than by misappropriating the monies of others.

113. Prior to December 2002, John V. Anderson met with Marsha Schubert on at least one occasion and asked her to stop operating on uncollected funds.

114. In spite of the concerns expressed by John V. Anderson to Marsha Schubert and the Loan Committee, the Defendants continued to allow Marsha Schubert to operate on uncollected funds until October of 2004.

115. Even though Marsha Schubert deposited large sums of money into the Schubert F&M Account from participants in the Purported Investment Program, the

account remained classified as a personal account by the bank until December 2002. At that time, John V. Anderson directed that the status of the Schubert F&M Account be changed from a personal to a business account. As a result of the reclassification, F&M Bank benefited from the imposition of a service charge on uncollected balances in the Schubert F&M Account during fifteen (15) of the subsequent twenty-two (22) months.

<b>Banking Cycle Ended</b>	<b>Approximate Average Collected Balance</b>	<b>Service Charge Debited by F&amp;M Bank</b>
January 16, 2003	\$ (472,320)	\$ 4,032.98
February 18, 2003	\$ (290,910)	\$ 2,826.61
March 18, 2003	\$ (414,960)	\$ 3,421.03
April 18, 2003	\$ (520,620)	\$ 5,058.53
May 16, 2003	\$ (679,760)	\$ 5,604.09
June 18, 2003	\$ (739,470)	\$ 6,749.54
July 17, 2003	\$ (830,220)	\$ 7,088.92
August 18, 2003	\$ (851,460)	\$ 8,022.34
September 18, 2003	\$ (1,113,460)	\$10,163.04
October 17, 2003	\$ (1,094,540)	\$ 9,990.36
November 18, 2003	\$ (1,221,590)	\$10,790.36
December 18, 2003	\$ (249,180)	\$ 2,201.06
January 16, 2004	\$ (271,710)	\$ 2,560.02
February 18, 2004	\$ (224,050)	\$ 1,979.02
March 18, 2004	\$ (1,430)	\$ 12.24
April 16, 2004	\$ 13,150	\$ 0.00
May 18, 2004	\$ 1,650	\$ 0.00
June 17, 2004	\$ 25,338	\$ 0.00
July 16, 2004	\$ (17,974)	\$ 0.00
August 17, 2004	\$ 18	\$ 0.00
September 17, 2004	\$ (2,011)	\$ 0.00
October 15, 2004	\$ (67,288)	\$ 0.00

116. Between January 2003 and March 2004, F&M Bank received uncollected balance fees in excess of Eighty Thousand Dollars (\$80,000) on the Schubert F&M Account. For each of the statement periods ended September 18, 2003, and November

18, 2003, F&M Bank received uncollected balance fees in excess of Ten Thousand Dollars (\$10,000).

117. Contrary to typical banking practice, F&M Bank did not place a temporary hold on the uncollected funds in the Schubert F&M Account or dishonor checks drawn on uncollected funds. Instead, the Loan Committee routinely approved the payment of such checks.

**C. Management's Knowledge of Check Exchange Scheme**

118. As described in paragraphs 119 through 139 below, the Defendants were fully aware of the check exchange between Marsha Schubert and Berry, Mathews, and Wilcox. Due to the "Large Item" nature of the checks from Berry, Mathews, and Wilcox deposited by Marsha Schubert into F&M Bank accounts and the "Large Item" nature of checks written to Berry, Mathews, and Wilcox from F&M Bank accounts controlled by Marsha Schubert, the Defendants knew of the frequent exchange of checks between Marsha Schubert and the three individuals.

**Activity Between F&M and NBanC Accounts**

119. Identifiable patterns of deposits and disbursements developed between the Schubert F&M Account and the NBanC accounts of Berry, Mathews, and Wilcox. In addition to the same frequency and timing of transactions, the deposits to the Schubert F&M Account from the NBanC Accounts of Berry, Mathews, and Wilcox were often in identical amounts. The disbursements from the Schubert F&M Account made in return to Berry, Mathews, and Wilcox were in similar or increasing amounts to the amounts previously deposited to the Schubert F&M Account. With rare exception, the deposits and disbursements were in even dollar amounts.

120. The following series of transactions in the Schubert F&M Account provides one of the many examples of the patterns described in paragraph 119 above:

Clearing Date	Depositor / Payee	Deposit Amount	Disbursement Amount
12/30/03	Lance Berry	\$93,750.00	\$0.00
12/30/03	Bob Mathews	\$93,750.00	\$0.00
12/30/03	Marvin Wilcox	\$93,750.00	\$0.00
12/30/03	Lance Berry	\$0.00	\$93,250.00
12/30/03	Bob Mathews	\$0.00	\$93,250.00
12/30/03	Marvin Wilcox	\$0.00	\$93,250.00
12/31/03	Lance Berry	\$95,806.00	\$0.00
12/31/03	Bob Mathews	\$95,806.00	\$0.00
12/31/03	Marvin Wilcox	\$95,806.00	\$0.00
12/31/03	Lance Berry	\$0.00	\$95,393.00
12/31/03	Bob Mathews	\$0.00	\$95,393.00
12/31/03	Marvin Wilcox	\$0.00	\$95,393.00

121. On at least one occasion during the Relevant Period, John Tom Anderson had a conversation with Dennis Themer, President of the Kingfisher branch of NBanC, in which John Tom Anderson was advised that the checks payable to Marsha Schubert from the NBanC accounts of Berry, Mathews, and Wilcox were drawn on uncollected funds.

122. On at least one occasion during the Relevant Period, John Tom Anderson had a conversation with Jim Talkington, Vice Chairman of NBanC, regarding the negative collected balances in the NBanC accounts of Berry, Mathews, and Wilcox.

123. During the Relevant Period, F&M Bank allowed the exchange of checks between the Schubert F&M Account and the NBanC accounts of Berry, Mathews, and Wilcox, knowing the incoming and outgoing checks were drawn on uncollected funds.

**Activity Between F&M Bank Accounts**

124. In or around November 2003, NBanC raised concerns about Marsha Schubert's activities involving the NBanC accounts of Berry, Mathews, and Wilcox. As

a result, Johnson suggested that Berry, Mathews, and Wilcox open checking accounts at F&M Bank.

125. Berry opened his F&M account (Berry F&M Account) with the transfer of \$5,000 from his NBanC account on or about November 12, 2003. Mathews opened his F&M account (Mathews F&M Account) with the transfer of \$5,000 from his NBanC account on or about November 10, 2003. Wilcox opened his F&M account (Wilcox F&M Account) with the transfer of \$5,000 from his NBanC account on or about November 10, 2003. Marsha Schubert controlled the F&M accounts of Berry, Mathews, and Wilcox in the same manner as she did their NBanC Accounts.

126. As described below, “Large Items” reviewed by the Loan Committee warranted action by the Defendants during the first days that the Berry, Mathews and Wilcox F&M Accounts were open.

127. In November 2003, the Defendants knew, or with the exercise of reasonable care could have known, of the following transactions between Berry and Marsha Schubert – transactions that simply involved the circular flow of money between two F&M Bank accounts and the Berry NBanC Account on the same banking day or on consecutive banking days:

<b>Date</b>	<b>Berry NBanC Account</b>	<b>Berry F&amp;M Account</b>	<b>Schubert F&amp;M Account</b>	<b>Total Daily Activity Between Accounts</b>
11/12/2003	-\$5,000.00	\$5,000.00		
	-\$200,000.00	\$200,000.00		
	\$484,140.00		-\$484,140.00	
	-\$260,000.00		\$260,000.00	
<b>Total Daily Activity</b>	<b>\$19,140.00</b>	<b>\$205,000.00</b>	<b>-\$224,140.00</b>	<b>\$0.00</b>

Date	Berry NBanC Account	Berry F&M Account	Schubert F&M Account	Total Daily Activity Between Accounts
11/13/2003	-\$270,000.00		\$270,000.00	
	\$479,201.00		-\$479,201.00	
		-\$199,700.00	\$199,700.00	
<b>Total Daily Activity</b>	<b>\$209,201.00</b>	<b>-\$199,700.00</b>	<b>-\$9,501.00</b>	<b>\$0.00</b>
11/14/2003	-\$259,800.00		\$259,800.00	
	\$260,500.00		-\$260,500.00	
	-\$15,000.00	\$15,000.00		
<b>Total Daily Activity</b>	<b>-\$14,300.00</b>	<b>\$15,000.00</b>	<b>-\$700.00</b>	<b>\$0.00</b>
11/17/2003	-\$220,000.00		\$220,000.00	
	\$260,201.00		-\$260,201.00	
	-\$17,000.00	\$17,000.00		
		-\$17,000.00	\$17,000.00	
<b>Total Daily Activity</b>	<b>\$23,201.00</b>	<b>\$0.00</b>	<b>\$23,201.00</b>	<b>\$0.00</b>
11/18/2003	-\$210,000.00		\$210,000.00	
	\$249,000.00		-\$249,000.00	
	-\$20,000.00	\$20,000.00		
		-\$15,000.00	\$15,000.00	
<b>Total Daily Activity</b>	<b>\$19,000.00</b>	<b>\$5,000.00</b>	<b>-\$24,000.00</b>	<b>\$0.00</b>
11/19/2003	-\$178,000.00		\$178,000.00	
	\$200,000.00		-\$200,000.00	
		-\$21,000.00	\$21,000.00	
<b>Total Daily Activity</b>	<b>\$22,000.00</b>	<b>-\$21,000.00</b>	<b>-\$1,000.00</b>	<b>\$0.00</b>

128. In November 2003, the Loan Committee had knowledge of a \$2,500 wire from the Berry F&M Account to an AXA account.

129. As required by bank policy, a bank officer approved the \$2,500 wire on November 19, 2003. The wire is the only evidence of a securities transaction effected on behalf of Berry during the time period reflected by the chart in paragraph 127 above.

130. During the first week the Berry F&M Account was open, the members of the Defendants had knowledge of money exchanged between the Schubert F&M Account and the Berry F&M Account, but saw no evidence of any transaction, other than the

November 19th wire, in which securities were purchased or sold by Marsha Schubert on behalf of Berry.

131. During November 2003, the level of uncollected funds in the Berry NBanC Account decreased. Thereafter, the check exchange continued through the Berry NBanC Account in smaller dollar amounts and on a less frequent basis.

132. In November 2003, the Defendants knew, or with the exercise of reasonable care could have known, of the following transactions between Mathews and Marsha Schubert – transactions which simply involved the circular flow of money between two F&M Bank accounts and the Mathews NBanC Account on the same banking day or on consecutive banking days:

Date	Mathews NBanC Account	Mathews F&M Account	Schubert F&M Account	Total Daily Activity Between Accounts
11/10/2003	-\$5,000.00	\$5,000.00		
	-\$479,000.00		\$479,000.00	
	\$480,500.00		-\$480,500.00	
<b>Total Daily Activity</b>	<b>-\$3,500.00</b>	<b>\$5,000.00</b>	<b>-\$1,500.00</b>	<b>\$0.00</b>
11/12/2003	-\$200,000.00	\$200,000.00		
	-\$250,000.00		\$250,000.00	
	\$484,140.00		-\$484,140.00	
<b>Total Daily Activity</b>	<b>\$34,140.00</b>	<b>\$200,000.00</b>	<b>-\$234,140.00</b>	<b>\$0.00</b>
11/13/2003		-\$199,700.00	\$199,700.00	
	-\$260,000.00		\$260,000.00	
	\$479,201.00		-\$479,201.00	
<b>Total Daily Activity</b>	<b>\$219,201.00</b>	<b>-\$199,700.00</b>	<b>-\$19,501.00</b>	<b>\$0.00</b>
11/14/2003	-\$12,000.00	\$12,000.00		
	-\$249,800.00		\$249,800.00	
	\$250,500.00		-\$250,500.00	
<b>Total Daily Activity</b>	<b>-\$11,300.00</b>	<b>\$12,000.00</b>	<b>-\$700.00</b>	<b>\$0.00</b>

Date	Mathews NBanC Account	Mathews F&M Account	Schubert F&M Account	Total Daily Activity Between Accounts
11/17/2003	-\$240,000.00		\$240,000.00	
	-\$30,000.00	\$30,000.00		
		-\$15,000.00	\$15,000.00	
	\$250,201.00		-\$250,201.00	
<b>Total Daily Activity</b>	<b>-\$19,799.00</b>	<b>\$15,000.00</b>	<b>\$4,799.00</b>	<b>\$0.00</b>
11/18/2003	-\$20,000.00	\$20,000.00		
		-\$31,000.00	\$31,000.00	
	-\$210,000.00		\$210,000.00	
	\$239,000.00		-\$239,000.00	
<b>Total Daily Activity</b>	<b>\$9,000.00</b>	<b>-\$11,000.00</b>	<b>\$2,000.00</b>	<b>\$0.00</b>
11/19/2003	-\$185,000.00		\$185,000.00	
		-\$21,000.00	\$21,000.00	
	-\$11,200.00		\$11,200.00	
	\$220,000.00		-\$220,000.00	
<b>Total Daily Activity</b>	<b>\$23,800.00</b>	<b>-\$21,000.00</b>	<b>-\$2,800.00</b>	<b>\$0.00</b>

133. During the first ten (10) days the Mathews F&M Account was open, the members of the Defendants had knowledge of money exchanged between the Schubert F&M Account and the Mathews F&M Account, but saw no evidence of a transaction in which securities were purchased or sold by Marsha Schubert on behalf of Mathews.

134. During November of 2003, the level of uncollected funds in the Mathews NBanC Account decreased. Thereafter, the check exchange continued through the Mathews NBanC Account in smaller dollar amounts and on a less frequent basis.

135. In November 2003, the Defendants knew, or with the exercise of reasonable care could have known, of the following transactions between Wilcox and Marsha Schubert – transactions which simply involved the circular flow of money between two F&M Bank accounts and the Wilcox NBanC Account on the same banking day or on consecutive banking days:

Date	Wilcox NBanC Account	Wilcox F&M Account	Schubert F&M Account	Total Daily Activity Between Accounts
11/10/2003	-\$5,000.00	\$5,000.00		
	<b>-\$479,000.00</b>		<b>\$479,000.00</b>	
<b>Total Daily Activity</b>	<b>-\$484,000.00</b>	<b>\$5,000.00</b>	<b>\$479,000.00</b>	<b>\$0.00</b>
11/12/2003	-\$200,000.00	\$200,000.00		
	-\$260,000.00		\$260,000.00	
	\$484,140.00		-\$484,140.00	
<b>Total Daily Activity</b>	<b>\$24,140.00</b>	<b>\$200,000.00</b>	<b>-\$224,140.00</b>	<b>\$0.00</b>
11/13/2003		-\$199,700.00	\$199,700.00	
	-\$270,000.00		\$270,000.00	
	\$479,201.00		-\$479,201.00	
<b>Total Daily Activity</b>	<b>\$209,201.00</b>	<b>-\$199,700.00</b>	<b>-\$9,501.00</b>	<b>\$0.00</b>
11/14/2003	-\$15,000.00	\$15,000.00		
	-\$259,800.00		\$259,800.00	
	\$260,500.00		-\$260,500.00	
<b>Total Daily Activity</b>	<b>-\$14,300.00</b>	<b>\$15,000.00</b>	<b>-\$700.00</b>	<b>\$0.00</b>
11/17/2003	-\$245,000.00		\$245,000.00	
	-\$40,000.00	\$40,000.00		
		-\$17,000.00	\$17,000.00	
	\$260,201.00		-\$260,201.00	
<b>Total Daily Activity</b>	<b>-\$24,799.00</b>	<b>\$23,000.00</b>	<b>\$1,799.00</b>	<b>\$0.00</b>
11/18/2003		\$20,000.00		
		-\$20,000.00		
	-\$210,000.00		\$210,000.00	
		-\$41,000.00	\$41,000.00	
	\$249,000.00		-\$249,000.00	
<b>Total Daily Activity</b>	<b>\$39,000.00</b>	<b>-\$41,000.00</b>	<b>\$2,000.00</b>	<b>\$0.00</b>
11/19/2003	-\$176,000.00		\$176,000.00	
	\$220,000.00		-\$220,000.00	
<b>Total Daily Activity</b>	<b>\$44,000.00</b>	<b>\$0.00</b>	<b>-\$44,000.00</b>	<b>\$0.00</b>
11/20/2003	-\$150,000.00		\$150,000.00	
		-\$21,000.00	\$21,000.00	
	-\$25,000.00	\$25,000.00		
	\$200,000.00		-\$200,000.00	
<b>Total Daily Activity</b>	<b>\$25,000.00</b>	<b>\$4,000.00</b>	<b>-\$29,000.00</b>	<b>\$0.00</b>

136. During the first eleven (11) days the Wilcox F&M Account was open, the members of the Defendants had knowledge of money exchanged between the Schubert F&M Account and the Wilcox F&M Account, but saw no evidence of a transaction in which securities were purchased or sold by Marsha Schubert on behalf of Wilcox.

137. During November of 2003, the level of uncollected funds in the Wilcox NBanC Account decreased. Thereafter, the check exchange continued through the Wilcox NBanC Account in smaller dollar amounts and on a less frequent basis.

138. As depicted below, most of the transactions that cleared the Schubert F&M Account on November 19, 2003, involved “Large Item” distributions to and “Large Item” deposits from Berry, Mathews, and Wilcox. There are no corresponding entries for disbursements to or from any brokerage, investment or clearing firm for the purchase or sale of securities through the account.

<b>Clearing Date</b>	<b>Depositor / Payee</b>	<b>Deposit Amount</b>	<b>Disbursement Amount</b>
11/19/03	Lance Berry	\$0.00	\$200,000.00
11/19/03	Marvin Wilcox	\$0.00	\$220,000.00
11/19/03	Bob Mathews	\$0.00	\$220,000.00
11/19/03	Bob Mathews	\$185,000.00	\$0.00
11/19/03	Lance Berry	\$178,000.00	\$0.00
11/19/03	Marvin Wilcox	\$176,000.00	\$0.00
11/19/03	Bob Mathews	\$21,000.00	\$0.00
11/19/03	Lance Berry	\$21,000.00	\$0.00
11/19/03	Marvin Wilcox	\$21,000.00	\$0.00
11/19/03	Bob Mathews	\$11,200.00	\$0.00
11/19/03	Justin Tarrant	\$0.00	\$4,000.00
11/19/03	P. Sorrentino	\$0.00	\$1,000.00
11/19/03	K. Kadavy	\$0.00	\$2,000.00
11/19/03	C. Blair	\$0.00	\$1,010.00

139. The Defendants knew, or in the exercise of reasonable care could have known, that the transactions occurring between Marsha Schubert and Berry, Mathews, and Wilcox did not involve the day trading of securities or any other type of legitimate investment activity.

**D. Use of Investment Proceeds**

140. During the Relevant Period, Defendants accepted the explanation that Marsha Schubert was day trading in stocks or buying and selling options, on behalf of her investment customers.

141. A red flag clearly visible to the Defendants was the absence of evidence of Marsha Schubert using the funds of participants in the Purported Investment Program to actually purchase stocks, options or any other type of investment.

142. Only on extremely rare occasions was there an outgoing wire or other type of withdrawal from the Schubert F&M Account for the purchase of securities to accompany deposits of participants' monies into the Schubert F&M Account .

143. During the Relevant Period, less than Two Million Dollars (\$2,000,000) was wired from F&M Bank to DLJ Pershing, the clearing firm for AXA, or Raymond James, the clearing firm for Wilbanks Securities, Inc., for the purchase of securities.

144. The insignificant number of outgoing wires transmitted through F&M Bank raised another red flag. While the wire activity in the Schubert F&M Account exceeded that in any other customer account at F&M Bank, the amount of money wired from the account represented less than one percent (1%) of the over Two Hundred Sixty-Seven Million Dollars (\$267,000,000) deposited into the Schubert F&M Account during the Relevant Period.

145. During the Relevant Period, the Defendants ignored how Marsha Schubert used ninety-nine percent (99%) of the participants' monies deposited into F&M Bank accounts as part of the Purported Investment Program.

146. Disbursements to participants in the Purported Investment Program from the Schubert F&M Account were not accompanied by deposits into the account of the proceeds from corresponding sales of securities on behalf of such participants. During the Relevant Period, there were less than ten (10) incoming wires to the Schubert F&M and Kattails Accounts that represented proceeds from the sale of securities. The amounts of these wires totaled less than One Million Dollars (\$1,000,000).

147. The dollar amount of wires to and from Pershing, Raymond James or any other brokerage, investment or clearing firm was miniscule in comparison to the total dollar amount of deposits in and disbursements out of the Schubert F&M Account for purported investment purposes.

148. Funds from participants in the Purported Investment Program that were deposited into the Schubert F&M Account were used for other "Large Item" purposes including, but not limited to, the payment of purported profits to other participants in the investment program, restoration of a muscle car, and the purchase of a condominium in Branson, Missouri. The condominium was purchased with a cashier's check in the amount of Two Hundred Nine Thousand Six Hundred Forty-One Dollars and Forty-Five Cents (\$209,641.45) issued by F&M Bank and signed by John Tom Anderson.

149. On at least two occasions in connection with loans made to Marsha Schubert, F&M Bank accepted loan payments made out of the Schubert F&M Account from funds deposited by participants in the Purported Investment Program.

150. Transactions in the Schubert F&M Account that preceded and followed a September 2003 disbursement to F&M Bank to pay off four loans provide a clear example of the activity described in paragraph 149 above:

Clearing Date	Depositor / Payee	Deposit Amount	Disbursement Amount
9/19/2003	GMAC	\$0.00	\$750.00
9/19/2003	Lance Berry	\$0.00	\$442,901.00
9/19/2003	Bob Mathews	\$0.00	\$420,398.00
9/19/2003	Marvin Wilcox	\$0.00	\$430,503.00
9/19/2003	Lance Berry	\$226,000.00	\$0.00
9/19/2003	Bob Mathews	\$217,000.00	\$0.00
9/19/2003	Marvin Wilcox	\$217,000.00	\$0.00
9/19/2003	Lance Berry	\$217,000.00	\$0.00
9/19/2003	Bob Mathews	\$215,000.00	\$0.00
9/19/2003	Marvin Wilcox	\$215,000.00	\$0.00
9/19/2003	Dress Barn	\$0.00	\$130.01
9/19/2003	American Express	\$0.00	\$3,458.69
9/19/2003	American Express	\$0.00	\$2,500.00
9/22/2003	Dillard's	\$0.00	\$489.86
9/22/2003	Dillard's	\$0.00	\$187.90
9/22/2003	Rack Room Shoes	\$0.00	\$166.58
9/22/2003	Kohl's	\$0.00	\$130.84
<b>9/22/2003</b>	<b>Farmers &amp; Merchants Bank</b>	<b>\$0.00</b>	<b>\$2,000.00</b>
9/22/2003	Kattails	\$0.00	\$2,000.00
9/22/2003	T. Brown	\$0.00	\$1,029.00
<b>9/22/2003</b>	<b>Farmers &amp; Merchants Bank</b>	<b>\$0.00</b>	<b>\$487.07</b>
9/22/2003	C. Pumphrey	\$0.00	\$5,313.33
9/22/2003	Kathleen Gibson	\$0.00	\$4,687.21
9/22/2003	M. Allen	\$0.00	\$2,500.00
9/22/2003	D. Walker	\$0.00	\$500.00
9/22/2003	Lance Berry	\$0.00	\$441,000.00
9/22/2003	Bob Mathews	\$0.00	\$431,000.00
9/22/2003	Marvin Wilcox	\$0.00	\$421,000.00
9/22/2003	Dollar General Store	\$0.00	\$6.53
<b>9/22/2003</b>	<b>Farmers &amp; Merchants Bank</b>	<b>\$0.00</b>	<b>\$105,010.11</b>
9/22/2003	Lance Berry	\$440,500.00	\$0.00
9/22/2003	Bob Mathews	\$430,500.00	\$0.00
9/22/2003	Marvin Wilcox	\$420,500.00	\$0.00
9/22/2003	Garden Ridge	\$0.00	\$84.40

All but six (6) of the transactions described above involved “Large Items” that were reviewed by the Loan Committee.

151. The transactions in the Schubert F&M Account that cleared on October 16, 2003, provide one of many examples of the activities described in paragraphs 148 and 149 above:

<b>Clearing Date</b>	<b>Depositor / Payee</b>	<b>Deposit Amount</b>	<b>Disbursement Amount</b>	<b>Description</b>
<b>10/16/03</b>	<b>Muscle Car Restoration</b>	<b>\$0.00</b>	<b>\$7,398.75</b>	
10/16/03	B. Schubert	\$0.00	\$500.00	
10/16/03	Lance Berry	\$0.00	\$479,801.00	
10/16/03	Bob Mathews	\$0.00	\$442,900.00	
10/16/03	Marvin Wilcox	\$0.00	\$467,907.00	
10/16/03	L. Jackson	\$0.00	\$20.00	
10/16/03	Lance Berry	\$480,000.00	\$0.00	
10/16/03	Bob Mathews	\$445,000.00	\$0.00	
10/16/03	Marvin Wilcox	\$469,000.00	\$0.00	
10/16/03	Discover Business Services	\$59.70	\$0.00	
10/16/03	Tackett, E. E.	\$0.00	\$300.00	
<b>10/16/03</b>	<b>Farmers &amp; Merchants Bank</b>	<b>\$0.00</b>	<b>\$1,000.00</b>	<b>Loan payment</b>
<b>10/16/03</b>	<b>Farmers &amp; Merchants Bank</b>	<b>\$0.00</b>	<b>\$412.83</b>	<b>Loan payment</b>
<b>10/16/03</b>	<b>TriLakes Escrow</b>	<b>\$0.00</b>	<b>\$209,641.45</b>	<b>Cashier's check Remitter: Richard Schubert</b>
10/16/03	G. Yenzler	\$0.00	\$200.00	

152. The source of funding for the cashier’s check to buy the Branson condominium was deposits from Berry, Wilcox and Mathews made on October 16, 2003. Those deposits and the cashier’s check were “Large Items” reviewed by the Loan Committee.

**E. Unauthorized Activity**

153. During the Relevant Period, at least two accounts were maintained at F&M Bank for the estate of Leland F. Schubert, the father-in-law of Marsha Schubert. Richard Schubert was the executor of his father's estate.

154. Marsha Schubert had no signatory or other authority over the Leland Schubert Estate accounts at F&M Bank (Estate Accounts).

155. On more than one occasion in 2004, F&M Bank allowed Marsha Schubert to transfer funds between the Estate Accounts and the Schubert F&M Account. For example, on or about March 25, 2004, at Marsha Schubert's direction, F&M Bank transferred \$60,000 from one of the Estate Accounts to the Schubert F&M Account. The transfer was a "Large Item" reviewed by the Loan Committee.

156. On the same date, the following disbursements to known participants in the Purported Investment Program, including an F&M Bank employee, cleared the Schubert F&M Account:

<b>Payee</b>	<b>Amount</b>
Lance Berry	\$34,295
Bob Mathews	\$17,450
Beth Armer	\$ 6,250
<b>Total</b>	<b>\$57,995</b>

These disbursements were "Large Items" reviewed by the Loan Committee.

157. On or about May 18, 2004, a check in the amount of \$80,000 drawn on one of the Estate Accounts was deposited into the Schubert F&M Account. The deposit was a "Large Item" reviewed by the Loan Committee.

158. On the following day, May 19, 2004, the following disbursements to participants in the Purported Investment Program totaling approximately Four Hundred

Thirteen Thousand One Hundred Twenty-Six Dollars (\$413,126) cleared the Schubert F&M Account:

Payee	Amount
Kathleen Gibson	\$ 212,680.00
O. Ham	\$ 84,693.20
Marion Wilcox	\$ 52,142.00
S. Phillips	\$ 48,401.00
Lance Berry	\$ 15,210.00
<b>Total</b>	<b>\$ 413,126.20</b>

These disbursements were “Large Items” reviewed by the Loan Committee.

159. Another example of unauthorized activity by Marsha Schubert involved a certificate of deposit owned by Schubert Implement Co., Inc. (Schubert Implement CD). Schubert Implement Co., Inc. (Schubert Implement) was a company owned by Leland Schubert. Marsha Schubert was not authorized to act on behalf of Schubert Implement.

160. On or about December 15, 2003, Johnson allowed Marsha Schubert to liquidate the Schubert Implement CD. Johnson credited the Schubert F&M Account in the amount of the proceeds on the purported premise that Marsha Schubert was going to invest the proceeds for the benefit of the estate of Leland Schubert.

161. As illustrated below, the proceeds from the liquidation of the Schubert Implement CD were used as follows:

Clearing Date	Depositor / Payee	Deposit Amount	Disbursement Amount
12/15/03	J. Ward	\$0.00	\$3,000.00
12/15/03	<b>Lance Berry</b>	<b>\$0.00</b>	<b>\$89,923.00</b>
12/15/03	<b>Bob Mathews</b>	<b>\$0.00</b>	<b>\$89,923.00</b>
12/15/03	<b>M. Wilcox</b>	<b>\$0.00</b>	<b>\$89,923.00</b>
12/15/03	<b>Lance Berry</b>	<b>\$88,400.00</b>	<b>\$0.00</b>
12/15/03	<b>Bob Mathews</b>	<b>\$88,400.00</b>	<b>\$0.00</b>
12/15/03	<b>M. Wilcox</b>	<b>\$88,400.00</b>	<b>\$0.00</b>

<b>Clearing Date</b>	<b>Depositor / Payee</b>	<b>Deposit Amount</b>	<b>Disbursement Amount</b>
<b>12/15/03</b>	<b>Schubert Implement Co., Inc.</b>	<b>\$50,824.94</b>	<b>\$0.00</b>
12/15/03	Cash	\$0.00	\$500.00
12/15/03	Cash	\$0.00	\$300.00
12/15/03	Equitable Life Insurance	\$0.00	\$78.86
12/15/03	Farmers & Merchants Bank	\$0.00	\$502.53
12/15/03	Kattails	\$0.00	\$5,000.00
<b>12/16/03</b>	<b>Lance Berry</b>	<b>\$89,100.00</b>	<b>\$0.00</b>
<b>12/16/03</b>	<b>Bob Matthews</b>	<b>\$89,100.00</b>	<b>\$0.00</b>
<b>12/16/03</b>	<b>Marvin Wilcox</b>	<b>\$89,100.00</b>	<b>\$0.00</b>
<b>12/16/03</b>	<b>Marvin Wilcox</b>	<b>\$0.00</b>	<b>\$89,907.40</b>
<b>12/16/03</b>	<b>Bob Mathews</b>	<b>\$0.00</b>	<b>\$89,907.40</b>
<b>12/16/03</b>	<b>Lance Berry</b>	<b>\$0.00</b>	<b>\$89,907.40</b>
12/15/03	B. Schubert	\$0.00	\$700.00
12/15/03	E. Tackett	\$0.00	\$350.00
12/15/03	S. Wilcox	\$0.00	\$710.00
12/16/03	L. Jones	\$0.00	\$2,293.40
12/16/03	K. Gibson	\$0.00	\$2,485.00
12/16/03	Discover Business Services	\$227.85	\$0.00
12/16/03	Discover Business Services	\$78.18	\$0.00
12/16/03	Discover Business Services	\$51.00	\$0.00
12/16/03	Farmers & Merchants Bank	\$0.00	\$412.83

162. The liquidation of the Schubert Implement CD, the corresponding credit to the Schubert F&M Account, and the disbursements to Berry, Wilcox, Mathews and Kattails were all “Large Items” reviewed by the Loan Committee on the next banking day.

163. The Defendants ignored and failed to act on the absence of evidence of the purchase of stocks, options or any other type of investment on behalf of Schubert Implement Co., Inc., or the estate of Leland Schubert.

**F. Lending Activity**

164. During the Relevant Period, F&M Bank entered into over seventy-five (75) new loans and refinancings with Marsha Schubert for purported purchases of cattle, vehicles, equipment, a mobile home, and real estate. The principal amount of such financings totaled over One Million Four Hundred Thousand Dollars (\$1,400,000). The interest rate charged by F&M Bank on these loans ranged from six percent to fifteen percent (6%-15%).

165. Johnson, acting under the supervision of John Tom Anderson, was the loan officer assigned to Marsha Schubert. Circumstances surrounding certain of the lending activity between F&M Bank and Marsha Schubert produced another red flag ignored by the Defendants.

166. On more than one occasion, F&M Bank deposited proceeds of cattle loans made to Marsha Schubert into the Schubert F&M Account, thereby knowingly commingling loan proceeds with funds contributed by participants in the Purported Investment Program.

167. On at least one occasion, F&M Bank loaned money to Marsha Schubert for the purported purchase of cattle without a proof of sale from the seller. Instead, F&M Bank accepted a note, handwritten by Marsha Schubert in the presence of a bank officer, as proof of the cattle purchase.

168. On more than one occasion, F&M Bank deposited proceeds of cattle loans into the Schubert F&M Account, however, there were no equivalent disbursements from the account for the purchase of cattle.

169. For example, on or about December 22, 2003, the proceeds of a new cattle loan in excess of Thirty Thousand Dollars (\$30,000) were deposited into the Schubert F&M Account. This loan was reviewed by the Loan Committee. The Defendants ignored and failed to act on the absence of evidence of a “Large Item” disbursement from the Schubert F&M Account for the purchase of cattle.

170. Bank employees, to include Stanton, Johnson and Tarrant, knowingly received purported profits from the Purported Investment Program through checks drawn on the same F&M Bank account into which loan proceeds were deposited.

**G. Other Commingling of Funds**

171. During the Relevant Period, F&M Bank allowed Marsha Schubert to commingle the funds received from participants in the Purported Investment Program with funds in the Kattails Account. Kattails, as described in paragraph 35 above, was a small gift shop that also offered embroidery services.

172. For example, on or about November 9, 2001, Marsha Schubert deposited a check from Johnny Stanbrough in the amount of Thirty-Five Thousand Six Hundred Dollars (\$35,600) into the Schubert F&M Account and deducted Twenty-Five Thousand Six Hundred Dollars (\$25,600) for transfer to the Kattails Account, for a net deposit to the Schubert F&M Account of Ten Thousand Dollars (\$10,000). Both the Stanbrough check of \$35,600 and the \$25,600 transfer to the Kattails Account were “Large Items” reviewed by the Loan Committee.

173. Another example occurred on or about December 13, 2001, when Marsha Schubert deposited into the Schubert F&M Account a check drawn on the Mathews NBank Account in the amount of Twenty-Nine Thousand Seven Hundred Twenty

Dollars (\$29,720). Marsha Schubert deducted Twenty-One Thousand Dollars (\$21,000) for transfer to the Kattails Account, for a net deposit to the Schubert F&M Account of Eight Thousand Seven Hundred Twenty Dollars (\$8,720). Mathews' check of \$29,720 and the \$21,000 transfer to the Kattails Account were "Large Items" reviewed by the Loan Committee.

174. In the examples cited in paragraphs 172 and 173 above, the Defendants ignored and failed to act on the simultaneous diversion of purported investment monies to a gift shop.

175. The following chart depicts other examples of "Large Items" received by Marsha Schubert from known participants in the Purported Investment Program that were deposited into the Kattails Account at F&M Bank and reviewed by the Loan Committee:

<b>Date Cleared</b>	<b>Payor</b>	<b>Amount</b>
October 20, 2000	Johnny Stanbrough	\$ 30,000.00
November 21, 2000	Betty Mathews Trust	\$ 7,500.00
November 21, 2000	W.R. Mathews Trust	\$ 7,500.00
February 14, 2001	R. Walker	\$ 20,000.00
June 15, 2001	Johnny Stanbrough	\$ 8,500.00
September 12, 2001	Bob Mathews	\$ 33,000.00
September 18, 2001	Johnny Stanbrough	\$ 35,741.81
September 25, 2001	B.J. Walker Revocable Trust	\$183,000.00
November 7, 2001	Betty R. Mathews Trust	\$ 12,000.00
November 7, 2001	W.R. Mathews Trust	\$ 10,000.00
March 7, 2002	Betty Mathews Trust	\$ 14,000.00
March 7, 2002	W.R. Mathews Trust	\$ 14,000.00
March 22, 2002	Betty R. Mathews Trust	\$ 17,029.00
March 22, 2002	W.R. Mathews Trust	\$ 17,029.00
July 5, 2002	Johnny Stanbrough	\$ 20,000.00
July 22, 2002	Johnny Stanbrough	\$ 39,400.00
August 28, 2002	Bob Mathews	\$ 3,786.00
June 24, 2003	P. Pourchot	\$ 18,289.00
July 2, 2003	P. Pourchot	\$ 25,800.00
July 10, 2003	Marvin Wilcox	\$ 8,000.00
July 10, 2003	Lance Berry	\$ 8,000.00

<b>Date Cleared</b>	<b>Payor</b>	<b>Amount</b>
July 10, 2003	Bob Mathews	\$ 8,000.00
September 10, 2003	P. Pourchot	\$ 25,000.00
February 18, 2004	Marion Wilcox	\$ 20,000.00
February 18, 2004	R. Owens	\$ 10,000.00
May 5, 2004	L. Shelley	\$ 20,000.00
May 7, 2004	S. Broughton	\$ 35,000.00
May 7, 2004	L. Wilcox	\$ 35,000.00
May 7, 2004	Lance Berry	\$ 15,210.00
September 21, 2004	Lance Berry	\$ 4,240.00

176. The following chart depicts examples of “Large Items” disbursed by Marsha Schubert from the Kattails Account to known participants in the Purported Investment Program that were reviewed by the Loan Committee:

<b>Date Cleared</b>	<b>Payee</b>	<b>Amount</b>
October 23, 2000	R. Hedrick	\$ 4,000.00
October 23, 2000	S. Hedrick	\$ 4,000.00
December 7, 2000	Kathleen Gibson	\$ 8,083.00
June 18, 2001	Betty R. Mathews Trust	\$ 7,463.00
July 20, 2001	Betty R. Mathews Trust	\$ 9,202.47
July 20, 2001	W.R. Mathews Trust	\$ 9,171.81
July 20, 2001	Johnny Stanbrough	\$ 4,164.10
August 16, 2001	Betty R. Mathews Trust	\$ 5,000.00
August 16, 2001	W.R. Mathews Trust	\$ 5,000.00
August 30, 2001	W.R. Mathews Trust	\$ 11,789.00
August 31, 2001	Betty R. Mathews Trust	\$ 11,888.64
September 12, 2001	Betty R. Mathews Trust	\$ 10,784.00
September 12, 2001	W.R. Mathews Trust	\$ 10,784.00
September 13, 2001	Johnny Stanbrough	\$ 10,784.00
September 19, 2001	Betty R. Mathews Trust	\$ 48,124.44
November 9, 2001	Betty R. Mathews Trust	\$ 12,840.00
November 9, 2001	W.R. Mathews Trust	\$ 11,183.40
December 13, 2001	Betty R. Mathews Trust	\$ 9,326.27
December 13, 2001	W.R. Mathews Trust	\$ 9,326.27

177. The commingling of funds described in paragraph 175 above continued until the Department obtained a temporary restraining order against Marsha Schubert on October 14, 2004.

#### **H. Monitoring of Brokerage Activities**

178. At times relevant hereto, **Barry L. Anderson** (Barry Anderson), son of John V. Anderson and brother of John Tom Anderson, served as Executive Vice President and a director of F&M Bank, working from the Guthrie, Oklahoma branch.

179. Between April 2, 1997 and December 31, 2003, Barry Anderson was registered as an agent of Financial Network Investment Centers (FNIC), a registered broker-dealer.

180. **Don Spicer** (Spicer) is an employee of F&M Bank and was registered as an agent of FNIC between June 19, 2003 and December 31, 2003. Spicer has been registered as an agent of Investment Centers of America since December 12, 2003.

181. Prior to January 1, 2004, FNIC was the third party marketer that offered and sold non-deposit investment products, to include stocks, bonds, mutual funds and annuities, on the premises of F&M Bank in Crescent and Guthrie.

182. Since January 2004, Investment Centers of America has been the third party marketer that offers and sells non-deposit investment products on the premises of F&M Bank.

183. F&M Bank's third party marketer relationship is governed by: a) a lease agreement between Investment Centers of America and the bank; b) the Federal banking regulators' *Interagency Statement on Retail Sales of Nondeposit Investment Products*

(*Interagency Statement*); and c) specific policies and procedures adopted by the bank, to include audit, monitoring, and compliance procedures.

184. The *Interagency Statement* requires the bank to monitor the broker-dealer's compliance with the lease agreement, the *Interagency Statement*, and applicable banking and securities laws and regulations. In order to monitor the activities of Investment Centers of America, F&M Bank must be familiar with the brokerage firm's policies and procedures.

185. The written supervisory procedures of Investment Centers of America require that all customer checks be promptly forwarded to the product sponsor for direct orders and to the clearing firm for trades done through the clearing firm. Representatives of Investment Centers of America are strictly prohibited from instructing customers to make checks payable to anyone other than the product sponsor or the clearing firm. Under no circumstances may such representatives accept customers' checks made payable to the individual representative or the broker-dealer firm, or deposit such checks into bank accounts controlled by the representatives.

186. Defendants knew, or in the exercise of reasonable care could have known, of the supervisory procedures of Investment Centers of America and that Spicer forwarded checks from customers of Investment Centers of America for the purchase of securities only to the product sponsor or clearing firm. With such knowledge, the Defendants repeatedly accepted the deposit of checks from purported investors, payable to Marsha Schubert, individually, or to Schubert and Associates, into the Schubert F&M and Kattails Accounts. The Defendants repeatedly reviewed all such "Large Item"

deposits from participants in the Purported Investment Program and failed to take action to question and stop such practice.

187. On numerous occasions, Stanton, Tarrant, Johnson and Armer requested statements from Marsha Schubert relating to the Purported Investment Program. Such statements were never produced by Marsha Schubert, a fact brought to the attention of Spicer.

188. Defendants failed to take advantage of the experience and expertise of Barry Anderson and Spicer to question and/or stop Marsha Schubert's activities.

#### **I. Conflicts of Interest**

189. The personnel policy of F&M Bank prohibits bank employees from acting as an attorney, consultant, agent, broker, or employee for any customer having business dealings with the bank. In addition, bank employees are prohibited from accepting gifts, services, or favors from customers of the bank. Bank employees are also prohibited from representing the bank in any transaction if their personal interest might conflict with the interests of the bank.

190. As part of F&M Bank's bribery policy, employees, officers, directors, and agents of the bank are prohibited from "self-dealing, conflicts of interest, or otherwise trading on their positions with [the bank]"[.]

191. F&M Bank designated Stanton as its compliance officer for purposes of the bank's bribery policy.

192. John V. Anderson and John Tom Anderson had knowledge of the financial relationship between Marsha Schubert and Stanton, Johnson, Tarrant, and Armer.

### **Ed Stanton**

193. Stanton made no financial contribution to the Purported Investment Program, yet, between March 26, 2002, and October 5, 2004, received twelve (12) disbursements from Marsha Schubert totaling in excess of \$100,000. Ten (10) of the disbursements were made by checks drawn on the Schubert F&M Account.

194. Stanton received a check in the amount of \$7,500 drawn on the Schubert F&M Account on May 24, 2002, in connection with a purported option transaction. The check cleared the Schubert F&M Account on the same day.

195. Like eleven (11) of the twelve (12) disbursements received by Stanton, the May 2002 disbursement to Stanton was a “Large Item” reviewed by the Loan Committee. The “Large Item” disbursements to Stanton from Marsha Schubert included monthly payments of \$7,000 beginning in April of 2004, after his resignation from the bank.

196. The sources of funding for the May 2002 disbursement to Stanton were the deposits of Seven Thousand Dollars (\$7,000) each by Mathews and the W.R. Mathews Trust. Both deposits were “Large Items” reviewed by the Loan Committee.

197. Like the other disbursements to Stanton from the Schubert F&M Account, the Defendants ignored and failed to act on the absence of evidence of a deposit of an amount, representing the proceeds from the sale of a security, into the Schubert F&M Account in connection with the May 2002 disbursement to Stanton.

198. Like the other four (4) disbursements received by Stanton during his tenure at F&M Bank, the May 2002 disbursement from Marsha Schubert was reviewed by John Tom Anderson in accordance with the bank’s bribery policy.

199. The Loan Committee reviewed ten (10) disbursements to Stanton that were paid out of the Schubert F&M Account – the same account through which the Committee continually observed the check exchange between Marsha Schubert and Berry, Mathews, and Wilcox, and the same account into which F&M Bank deposited the proceeds of cattle loans made to Marsha Schubert.

200. At times during the Relevant Period, Stanton advised one or more F&M Bank employees and/or customers to invest with Marsha Schubert. On at least one occasion, Stanton advised a holder of a maturing certificate of deposit issued by F&M Bank to liquidate the certificate of deposit and invest the proceeds with Marsha Schubert. On at least one occasion, Stanton helped facilitate the actual transfer of funds from F&M Bank to Marsha Schubert.

**Justin Tarrant**

201. Tarrant made no financial contribution to the Purported Investment Program, yet, between February 28, 2003 and September 30, 2004, received twelve (12) disbursements from Marsha Schubert totaling in excess of Forty-Nine Thousand Dollars (\$49,000).

202. Ten (10) of the disbursements were made by checks drawn on the Schubert F&M Account.

203. Tarrant received a check in the amount of Six Thousand Five Hundred Dollars (\$6,500) drawn on the Schubert F&M Account on September 23, 2003, in connection with a purported securities transaction. The check cleared the Schubert F&M Account on the same day.

204. Like four (4) other disbursements received by Tarrant from the Schubert F&M Account, the September 2003 disbursement was a “Large Item” reviewed by the Loan Committee.

205. The September 2003 disbursement to Tarrant was paid by the bank from the Schubert F&M Account at a time when the account had a large negative balance.

206. Like the other disbursements to Tarrant from the Schubert F&M Account, the Defendants ignored and failed to act on the absence of evidence of a deposit of an amount, representing the proceeds from the sale of a security, into the Schubert F&M Account in connection with the September 2003 distribution to Tarrant.

207. The Loan Committee reviewed five (5) disbursements to Tarrant that were paid out of the Schubert F&M Account – the same account through which the committee continually observed the check exchange between Marsha Schubert and Berry, Mathews, and Wilcox, and the same account into which F&M Bank deposited the proceeds of cattle loans made to Marsha Schubert.

#### **Chad Johnson**

208. Johnson made no financial contribution to the Purported Investment Program, yet, between December 2, 2003 and July 15, 2004, received six (6) disbursements from Marsha Schubert totaling \$35,200.

209. Johnson received a check in the amount of \$5,000 drawn on the Schubert F&M Account on February 5, 2004. The check cleared the Schubert F&M Account on the same day.

210. Three (3) of the four (4) disbursements from the Schubert F&M Account that were received by Johnson were “Large Items” reviewed by the Loan Committee.

211. The February 2004 disbursement to Johnson was made from an account balance comprising two deposits of \$98,028 and \$17,853.20 by Mathews; a deposit of \$98,028 by Berry; and a deposit of \$98,028 by Wilcox. All of these deposits and the disbursement to Johnson were “Large Items” reviewed by the Loan Committee.

212. Like the other disbursements to Johnson from the Schubert F&M Account, the Defendants ignored and failed to act on the absence of evidence of a deposit of an amount, representing the proceeds from the sale of a security, into the Schubert F&M Account in connection with the February 2004 disbursement.

213. The Loan Committee reviewed three (3) disbursements to Johnson paid out of the Schubert F&M Account – the same account through which the committee continually observed the check exchange between Marsha Schubert and Berry, Mathews, and Wilcox, and the same account into which F&M Bank deposited the proceeds of cattle loans made to Marsha Schubert.

#### **J. Bank Consultant’s Opinion**

214. In the spring of 2004, Johnson spoke with Michael Brennan, an outside consultant to F&M Bank, about the Purported Investment Program. Johnson specifically expressed concerns about the lack of statements regarding the program. Michael Brennan expressed the opinion that the activity could be a “Ponzi” scheme.

215. Michael Brennan also spoke with Melissa Moon, the Bank Secrecy Act officer for F&M Bank, regarding the possibility that Marsha Schubert’s activities involved a “Ponzi” scheme.

**K. Assistance to Bank Customers**

216. During the Relevant Period, F&M Bank maintained a banking relationship with over twenty (20) participants in the Purported Investment Program. Certain of these participants used their purported profits to make payments on their personal loans to F&M Bank.

217. In addition, on or about March 9, 2001, F&M Bank loaned Twenty-Five Thousand Dollars (\$25,000) to Hedrick. The proceeds of the loan were to be invested in the Purported Investment Program.

218. On the same day, March 9, 2001, Hedrick wrote a check on his F&M Bank account to “Schubert Associates” in the amount of Thirty-Five Thousand Dollars (\$35,000), which Marsha Schubert deposited into the Schubert F&M Account.

219. The following sequence of transactions depicts how the majority of Hedrick’s loan proceeds were actually used:

<b>Clearing Date</b>	<b>Depositor / Payee</b>	<b>Deposit Amount</b>	<b>Disbursement Amount</b>
3/9/2001	R. Hedrick	\$35,000.00	\$0.00
3/9/2001	Kattails	\$0.00	\$6,000.00
3/9/2001	Betty R. Mathews Trust	\$0.00	\$8,500.00
3/9/2001	W.R. Mathews Trust	\$0.00	\$8,500.00
3/9/2001	Johnny Stanbrough	\$0.00	\$16,000.00

220. On the following banking day, the Loan Committee reviewed the following “Large Items”: the loan to Hedrick, Hedrick’s check to “Schubert Associates,” Marsha Schubert’s deposit of said check into the Schubert F&M Account, and disbursements to Kattails and other participants in the Purported Investment Program.

221. The Defendants ignored and failed to act on the absence of evidence of the purchase of stocks, options or any other type of investment by Marsha Schubert for the

benefit of Hedrick. Defendants also failed to disclose Marsha Schubert's fraudulent securities scheme to Hedrick.

### **CAUSE OF ACTION**

#### **AIDING AND ABETTING SECURITIES FRAUD**

Paragraphs 1 through 221 above are realleged and incorporated by reference herein.

As set forth more fully above, Marsha Schubert, in connection with the offer, sale, or purchase of securities, directly and indirectly, a) made untrue statements of material facts 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, and b) engaged in an act, practice, or course of business that operated as a fraud or deceit, in violation of Section 1-501 of the Act and Section 101 of the Predecessor Act.

As detailed above, the Defendants knew, or in the exercise of reasonable care could have known, that there were no disbursements to or from a brokerage, investment or clearing firm that corresponded to the over Two Hundred Sixty-Seven Million Dollars (\$267,000,000) flowing in and out of the Schubert F&M and Kattails Accounts. The Defendants knew, or in the exercise of reasonable care could have known, that the transactions between Marsha Schubert and Berry, Mathews and Wilcox did not involve the day trading of securities or any other type of legitimate investment activity.

The Defendants knew, or with the exercise of reasonable care could have known, of the "Ponzi" and check exchange schemes orchestrated by Marsha Schubert through the Schubert F&M Account for almost five (5) years. Both schemes involved unsafe and unsound banking practices that went unimpeded by the Defendants. The Defendants

knew, or with the exercise of reasonable care could have known, that Marsha Schubert's acts, practices, and course of business evidenced a massive securities fraud. On a daily basis, the Defendants ignored and failed to respond to numerous suspicious circumstances that continually arose in connection with Marsha Schubert's securities fraud. The Defendants provided substantial assistance to Marsha Schubert's securities fraud and securities law violations.

Based on the foregoing, Defendants materially aided and/or participated in Marsha Schubert's fraudulent conduct, acts, practices, and course of business, thereby violating Section 1-501 of the Act and Section 101 of the Predecessor Act. Accordingly, Defendants are liable, jointly and severally, with and to the same extent as Marsha Schubert, for the securities fraud.

#### **PRAYER FOR RELIEF**

WHEREFORE, based upon the foregoing, the Department prays for the Court to grant the following relief:

#### I.

A permanent injunction, restraining and enjoining the Defendants, their agents, servants, employees, assigns, and all those persons, directly or indirectly, acting on their behalf, under their direction and control, and/or in active concert or participation with them, who receive actual notice of the permanent injunction, by personal service, facsimile or otherwise, and each of them from violating the anti-fraud provisions of the Act;

## II.

An order requiring Defendants Farmers & Merchants Bancshares, Inc., John V. Anderson and John Tom Anderson to make restitution, in an amount to be determined by this Court, to Douglas L. Jackson, the court appointed receiver for the benefit of the claimants and creditors of Marsha Schubert and Schubert and Associates in the Logan County Suit (Receiver), for the benefit of all participants in the Purported Investment Program who transferred money to Marsha Schubert for the purpose of making securities investments on their behalf and who suffered damages from their participation in the Purported Investment Program;

## III.

An order requiring Defendant Farmers & Merchants Bank to make restitution, in an amount to be determined by this Court, to the Receiver, for the benefit of all participants in the Purported Investment Program who transferred money to Marsha Schubert for the purpose of making securities investments on their behalf and who suffered damages from their participation in the Purported Investment Program; provided, however, such total restitution by Defendant Farmers & Merchants Bank (Defendant Bank) shall not be more than an amount that, when paid and subtracted from the Defendant Bank's capital existing as of the date of the filing of this Petition or the date of judgment, whichever is greater, would cause the Defendant Bank's capital category to drop below "well capitalized" as that term is defined in Title 12 U.S.C. 1831o and 12 C.F.R. Part 325.

IV.

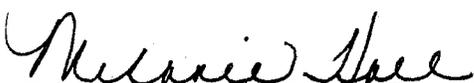
An order imposing a civil penalty against Defendants in the amount of Fifteen Thousand Dollars (\$15,000) each; and/or

V.

Such other equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF  
SECURITIES  
Irving L. Faight, Administrator

By:   
Melanie Hall (OBA #1209)  
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Oklahoma Department of Securities  
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**EXHIBIT A**

**Bob Mathews**

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
10/17/03	09/19/03	09/19/03	\$215,000.00	
10/17/03	09/19/03	09/19/03	\$217,000.00	
10/17/03	09/18/03	09/19/03		\$420,398.00
10/17/03	09/22/03	09/22/03	\$430,500.00	
10/17/03	09/19/03	09/22/03		\$431,000.00
10/17/03	09/23/03	09/23/03	\$426,000.00	
10/17/03	09/22/03	09/23/03		\$431,000.00
10/17/03	09/24/03	09/24/03	\$430,000.00	
10/17/03	09/23/03	09/24/03		\$431,040.00
10/17/03	09/25/03	09/25/03	\$435,000.00	
10/17/03	09/24/03	09/25/03		\$426,542.00
10/17/03	09/26/03	09/26/03	\$429,000.00	
10/17/03	09/25/03	09/26/03		\$430,211.00
10/17/03	09/29/03	09/29/03	\$399,400.00	
10/17/03	09/26/03	09/29/03		\$400,100.00
10/17/03	09/30/03	09/30/03	\$430,506.00	
10/17/03	09/29/03	09/30/03		\$456,000.00
10/17/03	10/01/03	10/01/03	\$407,000.00	
10/17/03	09/30/03	10/01/03		\$399,724.00
10/17/03	10/02/03	10/02/03	\$431,000.00	
10/17/03	09/30/03	10/02/03		\$430,807.00
10/17/03	10/03/03	10/03/03	\$407,500.00	
10/17/03	10/02/03	10/03/03		\$407,357.00
10/17/03	10/06/03	10/06/03	\$433,000.00	
10/17/03	10/03/03	10/06/03		\$431,371.00
10/17/03	10/07/03	10/07/03	\$415,000.00	
10/17/03	10/05/03	10/07/03		\$408,100.00
10/17/03	10/08/03	10/08/03	\$436,000.00	
10/17/03	10/07/03	10/08/03		\$435,282.00
10/17/03	10/09/03	10/09/03	\$420,000.00	
10/17/03	10/08/03	10/09/03		\$415,901.00
10/17/03	10/10/03	10/10/03	\$438,000.00	
10/17/03	10/09/03	10/10/03		\$436,408.00
10/17/03	10/14/03	10/14/03	\$441,000.00	
10/17/03	10/10/03	10/14/03		\$420,506.00
10/17/03	10/15/03	10/15/03	\$462,000.00	

Statement Date	Transaction Date	Clear Date	Deposit to Schubert	Disbursement from Schubert
10/17/03	10/14/03	10/15/03		\$459,000.00
10/17/03	10/16/03	10/16/03	\$445,000.00	
10/17/03	10/15/03	10/16/03		\$442,900.00
10/17/03	10/17/03	10/17/03	\$461,000.00	
10/17/03	10/16/03	10/17/03		\$462,700.00
11/18/03	10/20/03	10/20/03	\$476,000.00	
11/18/03	10/20/03	10/20/03		\$446,000.00
11/18/03	10/21/03	10/21/03	\$473,000.00	
11/18/03	10/20/03	10/21/03		\$472,000.00
11/18/03	10/22/03	10/22/03	\$487,000.00	
11/18/03	10/22/03	10/22/03		\$30,000.00
11/18/03	10/20/03	10/22/03		\$456,000.00
11/18/03	10/23/03	10/23/03	\$487,500.00	
11/18/03	10/22/03	10/23/03		\$488,000.00
11/18/03	10/24/03	10/24/03	\$487,000.00	
11/18/03	10/23/03	10/24/03		\$487,400.00
11/18/03	10/27/03	10/27/03	\$486,000.00	
11/18/03	10/24/03	10/27/03		\$488,000.00
11/18/03	10/28/03	10/28/03	\$485,000.00	
11/18/03	10/27/03	10/28/03		\$486,000.00
11/18/03	10/29/03	10/29/03	\$485,000.00	
11/18/03	10/28/03	10/29/03		\$486,402.00
11/18/03	10/30/03	10/30/03	\$484,300.00	
11/18/03	10/29/03	10/30/03		\$484,000.00
11/18/03	10/31/03	10/31/03	\$487,000.00	
11/18/03	10/30/03	10/31/03		\$486,000.00
11/18/03	11/03/03	11/03/03	\$40,000.00	
11/18/03	11/03/03	11/03/03	\$488,000.00	
11/18/03	10/31/03	11/03/03		\$35,000.00
11/18/03	10/31/03	11/03/03		\$484,500.00
11/18/03	11/04/03	11/04/03	\$486,000.00	
11/18/03	11/03/03	11/04/03		\$487,000.00
11/18/03	11/05/03	11/05/03	\$487,000.00	
11/18/03	11/04/03	11/05/03		\$531,000.00
11/18/03	11/06/03	11/06/03	\$480,000.00	
11/18/03	11/05/03	11/06/03		\$486,100.00
11/18/03	11/07/03	11/07/03	\$484,000.00	
11/18/03	11/06/03	11/07/03		\$485,000.00
11/18/03	11/10/03	11/10/03	\$479,000.00	
11/18/03	11/07/03	11/10/03		\$480,500.00

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
11/18/03	11/12/03	11/12/03	\$250,000.00	
11/18/03	11/10/03	11/12/03		\$484,140.00
11/18/03	11/13/03	11/13/03	\$199,700.00	
11/18/03	11/13/03	11/13/03	\$260,000.00	
11/18/03	11/12/03	11/13/03		\$479,201.00
11/18/03	11/14/03	11/14/03	\$249,800.00	
11/18/03	11/13/03	11/14/03		\$250,500.00
11/18/03	11/17/03	11/17/03	\$15,000.00	
11/18/03	11/17/03	11/17/03	\$240,000.00	
11/18/03	11/17/03	11/17/03		\$250,201.00
11/18/03	11/18/03	11/18/03	\$31,000.00	
11/18/03	11/18/03	11/18/03	\$210,000.00	
11/18/03	11/17/03	11/18/03		\$239,000.00

**EXHIBIT B**

**Marvin Wilcox**

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
10/17/03	09/19/03	09/19/03	\$217,000.00	
10/17/03	09/19/03	09/19/03	\$215,000.00	
10/17/03	09/19/03	09/18/03		\$430,503.00
10/17/03	09/22/03	09/22/03	\$420,500.00	
10/17/03	09/22/03	09/19/03		\$421,000.00
10/17/03	09/23/03	09/23/03	\$437,000.00	
10/17/03	09/23/03	09/22/03		\$442,803.00
10/17/03	09/24/03	09/24/03	\$421,000.00	
10/17/03	09/24/03	09/23/03		\$421,040.00
10/17/03	09/25/03	09/25/03	\$426,000.00	
10/17/03	09/25/03	09/24/03		\$437,542.00
10/17/03	09/26/03	09/26/03	\$420,000.00	
10/17/03	09/26/03	09/25/03		\$421,211.00
10/17/03	09/29/03	09/29/03	\$434,000.00	
10/17/03	09/29/03	09/26/03		\$435,409.00
10/17/03	09/30/03	09/30/03	\$424,000.00	
10/17/03	09/30/03	09/29/03		\$421,000.00
10/17/03	10/01/03	10/01/03	\$437,000.00	
10/17/03	10/01/03	09/30/03		\$434,300.00
10/17/03	10/02/03	10/02/03	\$425,100.00	
10/17/03	10/02/03	09/29/03		\$421,806.00
10/17/03	10/03/03	10/03/03	\$435,500.00	
10/17/03	10/03/03	10/03/03		\$800.00
10/17/03	10/03/03	10/02/03		\$434,500.00
10/17/03	10/06/03	10/06/03	\$427,000.00	
10/17/03	10/06/03	10/03/03		\$426,371.00
10/17/03	10/07/03	10/07/03	\$435,000.00	
10/17/03	10/07/03	10/05/03		\$435,707.00
10/17/03	10/08/03	10/08/03	\$428,000.00	
10/17/03	10/08/03	10/07/03		\$427,282.00
10/17/03	10/09/03	10/09/03	\$437,000.00	
10/17/03	10/09/03	10/08/03		\$435,901.00
10/17/03	10/10/03	10/10/03	\$429,000.00	
10/17/03	10/10/03	10/09/03		\$428,408.00
10/17/03	10/14/03	10/14/03	\$467,000.00	
10/17/03	10/14/03	10/10/03		\$437,506.00

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
10/17/03	10/15/03	10/15/03	\$462,000.00	
10/17/03	10/15/03	10/14/03		\$459,000.00
10/17/03	10/16/03	10/16/03	\$469,000.00	
10/17/03	10/16/03	10/15/03		\$467,907.00
10/17/03	10/17/03	10/17/03	\$461,000.00	
10/17/03	10/17/03	10/16/03		\$462,700.00
11/18/03	10/20/03	10/20/03	\$475,000.00	
11/18/03	10/20/03	10/17/03		\$470,000.00
11/18/03	10/21/03	10/21/03	\$473,000.00	
11/18/03	10/21/03	10/20/03		\$472,000.00
11/18/03	10/22/03	10/22/03	\$486,000.00	
11/18/03	10/22/03	10/20/03		\$15,000.00
11/18/03	10/22/03	10/20/03		\$470,000.00
11/18/03	10/23/03	10/23/03	\$487,500.00	
11/18/03	10/23/03	10/22/03		\$488,000.00
11/18/03	10/24/03	10/24/03	\$486,000.00	
11/18/03	10/24/03	10/23/03		\$486,400.00
11/18/03	10/27/03	10/27/03	\$486,000.00	
11/18/03	10/27/03	10/24/03		\$488,000.00
11/18/03	10/28/03	10/28/03	\$485,000.00	
11/18/03	10/28/03	10/27/03		\$486,000.00
11/18/03	10/29/03	10/29/03	\$485,000.00	
11/18/03	10/29/03	10/28/03		\$486,402.00
11/18/03	10/30/03	10/30/03	\$484,300.00	
11/18/03	10/30/03	10/29/03		\$484,000.00
11/18/03	10/31/03	10/31/03	\$487,000.00	
11/18/03	10/31/03	10/30/03		\$486,000.00
11/18/03	11/03/03	11/03/03	\$40,000.00	
11/18/03	11/03/03	11/03/03	\$488,000.00	
11/18/03	11/03/03	10/31/03		\$25,000.00
11/18/03	11/03/03	10/31/03		\$484,500.00
11/18/03	11/04/03	11/04/03	\$486,000.00	
11/18/03	11/04/03	11/03/03		\$487,000.00
11/18/03	11/05/03	11/05/03	\$487,000.00	
11/18/03	11/05/03	11/04/03		\$531,000.00
11/18/03	11/06/03	11/06/03	\$480,000.00	
11/18/03	11/06/03	11/05/03		\$486,100.00
11/18/03	11/07/03	11/07/03	\$484,000.00	
11/18/03	11/07/03	11/06/03		\$485,000.00
11/18/03	11/10/03	11/10/03	\$479,000.00	

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
11/18/03	11/10/03	11/07/03		\$480,500.00
11/18/03	11/12/03	11/12/03	\$260,000.00	
11/18/03	11/12/03	11/10/03		\$484,140.00
11/18/03	11/13/03	11/13/03	\$199,700.00	
11/18/03	11/13/03	11/13/03	\$270,000.00	
11/18/03	11/13/03	11/12/03		\$479,201.00
11/18/03	11/14/03	11/14/03	\$259,800.00	
11/18/03	11/14/03	11/13/03		\$260,500.00
11/18/03	11/17/03	11/17/03	\$17,000.00	
11/18/03	11/17/03	11/17/03	\$245,000.00	
11/18/03	11/17/03	11/17/03		\$500.00
11/18/03	11/17/03	11/14/03		\$260,201.00
11/18/03	11/18/03	11/18/03	\$41,000.00	
11/18/03	11/18/03	11/18/03	\$210,000.00	
11/18/03	11/18/03	11/17/03		\$249,000.00

**EXHIBIT C**

**Lance Berry**

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
10/17/03	09/19/03	09/18/03		\$442,901.00
10/17/03	09/19/03	09/19/03	\$226,000.00	
10/17/03	09/19/03	09/19/03	\$217,000.00	
10/17/03	09/22/03	09/19/03		\$441,000.00
10/17/03	09/22/03	09/22/03	\$440,500.00	
10/17/03	09/23/03	09/22/03		\$443,893.00
10/17/03	09/23/03	09/23/03	\$438,000.00	
10/17/03	09/24/03	09/23/03		\$441,040.00
10/17/03	09/24/03	09/24/03	\$436,000.00	
10/17/03	09/25/03	09/24/03		\$438,542.00
10/17/03	09/25/03	09/25/03	\$435,000.00	
10/17/03	09/26/03	09/25/03		\$430,211.00
10/17/03	09/26/03	09/26/03	\$429,000.00	
10/17/03	09/29/03	09/26/03		\$435,409.00
10/17/03	09/29/03	09/29/03	\$434,000.00	
10/17/03	09/30/03	09/29/03		\$430,000.00
10/17/03	09/30/03	09/30/03	\$430,506.00	
10/17/03	10/01/03	09/30/03		\$434,300.00
10/17/03	10/02/03	09/30/03		\$430,806.00
10/17/03	10/01/03	10/01/03	\$434,000.00	
10/17/03	10/02/03	10/02/03	\$431,000.00	
10/17/03	10/03/03	10/02/03		\$434,500.00
10/17/03	10/03/03	10/03/03	\$435,000.00	
10/17/03	10/06/03	10/03/03		\$431,371.00
10/17/03	10/07/03	10/05/03		\$485,707.00
10/17/03	10/06/03	10/06/03	\$433,000.00	
10/17/03	10/08/03	10/06/03		\$435,282.00
10/17/03	10/07/03	10/07/03	\$485,000.00	
10/17/03	10/08/03	10/08/03	\$436,000.00	
10/17/03	10/09/03	10/08/03		\$475,000.00
10/17/03	10/09/03	10/09/03	\$480,000.00	
10/17/03	10/10/03	10/09/03		\$436,408.00
10/17/03	10/10/03	10/10/03	\$438,000.00	
10/17/03	10/14/03	10/10/03		\$480,980.00
10/17/03	10/14/03	10/14/03	\$479,000.00	

Statement Date	Transaction Date	Clear Date	Deposit to Schubert	Disbursement from Schubert
10/17/03	10/15/03	10/14/03		\$459,000.00
10/17/03	10/15/03	10/15/03	\$462,000.00	
10/17/03	10/16/03	10/15/03		\$479,801.00
10/17/03	10/16/03	10/16/03	\$480,000.00	
10/17/03	10/17/03	10/16/03		\$462,700.00
10/17/03	10/17/03	10/17/03	\$461,000.00	
11/18/03	10/20/03	10/20/03	\$480,000.00	
11/18/03	10/20/03	10/20/03		\$481,000.00
11/18/03	10/21/03	10/20/03		\$472,000.00
11/18/03	10/22/03	10/20/03		\$491,000.00
11/18/03	10/21/03	10/21/03	\$473,000.00	
11/18/03	10/22/03	10/22/03	\$490,000.00	
11/18/03	10/23/03	10/22/03		\$488,000.00
11/18/03	10/23/03	10/23/03	\$487,500.00	
11/18/03	10/24/03	10/23/03		\$490,400.00
11/18/03	10/24/03	10/24/03	\$489,000.00	
11/18/03	10/27/03	10/24/03		\$488,000.00
11/18/03	10/27/03	10/27/03	\$486,000.00	
11/18/03	10/28/03	10/27/03		\$489,000.00
11/18/03	10/28/03	10/28/03	\$488,000.00	
11/18/03	10/29/03	10/28/03		\$486,402.00
11/18/03	10/29/03	10/29/03	\$485,000.00	
11/18/03	10/30/03	10/29/03		\$487,000.00
11/18/03	10/30/03	10/30/03	\$487,000.00	
11/18/03	10/30/03	10/30/03	\$45,000.00	
11/18/03	10/31/03	10/30/03		\$486,000.00
11/18/03	10/31/03	10/31/03	\$487,000.00	
11/18/03	11/03/03	10/31/03		\$65,000.00
11/18/03	11/03/03	10/31/03		\$487,000.00
11/18/03	11/03/03	11/03/03	\$488,000.00	
11/18/03	11/04/03	11/03/03		\$487,000.00
11/18/03	11/04/03	11/04/03	\$486,000.00	
11/18/03	11/05/03	11/04/03		\$488,000.00
11/18/03	11/05/03	11/05/03	\$487,000.00	
11/18/03	11/06/03	11/05/03		\$486,100.00
11/18/03	11/06/03	11/06/03	\$480,000.00	
11/18/03	11/07/03	11/06/03		\$485,000.00
11/18/03	11/07/03	11/07/03	\$484,000.00	

<b>Statement Date</b>	<b>Transaction Date</b>	<b>Clear Date</b>	<b>Deposit to Schubert</b>	<b>Disbursement from Schubert</b>
11/18/03	11/10/03	11/07/03		\$480,500.00
11/18/03	11/10/03	11/10/03	\$479,000.00	
11/18/03	11/12/03	11/10/03		\$484,140.00
11/18/03	11/12/03	11/12/03	\$260,000.00	
11/18/03	11/13/03	11/12/03		\$479,201.00
11/18/03	11/13/03	11/13/03	\$270,000.00	
11/18/03	11/13/03	11/13/03	\$199,700.00	
11/18/03	11/14/03	11/13/03		\$260,500.00
11/18/03	11/14/03	11/14/03	\$259,800.00	
11/18/03	11/17/03	11/14/03		\$260,201.00
11/18/03	11/17/03	11/17/03	\$220,000.00	
11/18/03	11/17/03	11/17/03	\$17,000.00	
11/18/03	11/18/03	11/17/03		\$249,000.00
11/18/03	11/18/03	11/18/03	\$210,000.00	
11/18/03	11/18/03	11/18/03	\$15,000.00	