

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA



In the Matter of:

Anthony L. Cross (CRD #3155726), and
The O.N. Equity Sales Company (CRD #2936),

Respondents.

ODS File No. 11-017

**ORDER DENYING REQUEST OF RESPONDENT CROSS FOR
APPOINTMENT OF A HEARING OFFICER**

On June 6, 2012, Respondent Anthony L. Cross ("Cross") filed a motion with the Administrator ("Administrator") of the Oklahoma Department of Securities ("Department"), requesting that the Administrator appoint an independent hearing officer in the referenced matter. Cross alleges that the Administrator or any of his staff "**may** have a conflict of interest if serving as the Hearing Officer in the instant matter." [Emphasis added.]

The Oklahoma Supreme Court in *Mackey v. Crump*, 153 P. 1128, 1130 (Okla. 1915) in establishing a test for determining whether a conflict of interest exists stated that the interest must be immediate "and that a remote, uncertain, or speculative interest was not sufficient." The Oklahoma Attorney General has further opined that a conflict of interest would exist for an administrative officer only "if that officer has a direct and immediate personal or pecuniary interest in the proceeding, not just an interest that may be indirect, remote, speculative, uncertain, theoretical, or merely possible." 1985 OK AG 132.

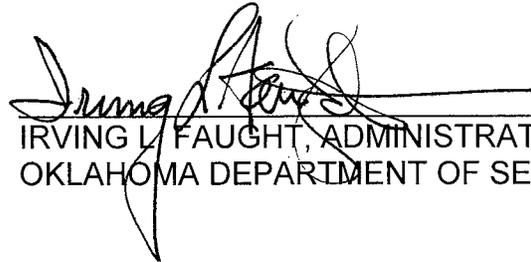
The fact that the Department participates in the investigation, prosecution, and adjudication of matters before it does not violate a respondent's right to due process. See *Wilson v. Okla. Horse Racing Commn.*, 910 P.2d 1020, 1023 (Okla. 1996) (citing

Withrow v. Larkin, 421 U.S. 35, 46-47 (1975)). Further, the fact that the Enforcement Division of the Department is an advocate in a matter and the Administrator is the adjudicator in the same matter is not enough to cast doubt as to the impartiality of any judgment the Administrator may pronounce in the matter. See *id.* (“Agency administrators are presumed to be capable of judging a particular controversy fairly, on the basis of its own circumstances.”)

IT IS HEREBY ORDERED that Respondent’s motion for the Administrator to appoint an independent hearing officer is denied.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 29th day of June, 2012.

(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF SERVICE

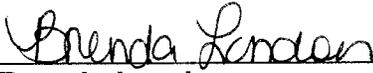
The undersigned hereby certifies that on the 29th day of June, 2012, a true and correct copy of the above and foregoing order was emailed and mailed by first-class mail with postage prepaid thereon, to the following:

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ATTORNEY FOR ONESCO

and the undersigned hereby certifies that on the 29th day of June, 2012, a true and correct copy of the above and foregoing order was emailed to the following:

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**ATTORNEYS FOR THE OKLAHOMA
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Brenda London