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FDIC v. Bachman, 894 F.2d 1233
Author: Judge Logan

Defendants, limited partners of Brookwood Drilling Partnership 1980-I ("Brookwood"), appealed the district court's summary judgment. The district court held them liable to plaintiff, Federal Deposit Insurance Corporation ("FDIC") for unpaid capital contributions under the Oklahoma Uniform Limited Partnership Act. On appeal, Brookwood argued that: (1) FDIC lacked standing to bring such an action; (2) the suit was barred by the state statute of limitations; and (3) the liability of Brookwood was not justified based on the circumstances presented.

First, the Tenth Circuit held that the standing argument raised by Brookwood was, in actuality, a real-party-in-interest question. Because Brookwood did not raise the issue at the trial level, however, the court held that it was waived. Second, the court held that the United States was not bound by the state statute of limitations in enforcing its rights absent a clear manifestation of congressional intent. Finally, the court held that under the circumstances of this case, Oklahoma statutory law resulted in limited partner liability for the portion of their stated capital contributions. The contributions were made by letters of credit in lieu of cash.

Fullmer v. Wohlfeiler & Beck, 905 F.2d 1394
Author: Chief Judge Holloway

Plaintiffs, Fullmer, Moody, and Kennard ("FMK"), were investors in Intermountain Giftmakers ("Giftmakers"). FMK brought suit against defendants, Wohlfeiler & Beck ("WB"), auditors, for negligence and negligent misrepresentation. FMK asserted financial losses because business activities were carried out in reliance on accounting reports generated by WB. The district court entered judgment for FMK. WB appealed, asserting that: (1) the district court should have considered a comparative negligence defense; (2) the district court erred in failing to impute to FM the knowledge of a Giftmakers' officer because of an alleged agency relationship; (3) investments by FM were not loans, but instead were purchases of a royalty interest in a loan of goods; (4) FM did not rely on WB's financial reports in making loans to Giftmakers; (5) the district court erred in failing to reduce FMK's damages by the amount of tax benefits received in connection with their investments; and (6) an accountant's liability does not extend to Kennard because he was a future purchaser.

The Tenth Circuit affirmed the district court's judgment. The court reasoned that an accountant should not be absolved of duties undertaken by him to one reasonably relying on his audit. This occurs unless

the plaintiff contributes to the auditor's misstatement. Consequently, since FMK's imprudent business practices had no bearing on WB's negligence, comparative negligence was not a defense. Second, the court stated that WB did not prove that the district court's failure to find an agency relationship between FM and WB was clearly erroneous. Consequently, the officer's knowledge could not be imputed to FM. Thus, FM was not bound by the knowledge of the officer regarding the financial condition of Giftmakers. Third, the court found that the investment agreements showed financing and stated that they were in return for financing a portion of producing the product line. Moreover, there was a commitment to repay with interest obligations. Consequently, there was ample evidence supporting the district court's conclusion that the investments were loans. Fourth, the court stated that there was support for the district court's conclusion that substantial reliance on the financial reports entitled FM to recovery. Fifth, WB's contention that recovery should have been reduced by tax benefits was not error since FMK was required to report damages income as taxable income. Finally, the court stated that awarding damages to third party investor, Kennard, was not error. The court reasoned that future investments by third parties is reasonably foreseeable.

In re Groff, 898 F.2d 1475
Author: Judge Logan

To secure a debt of Lee and Gwen Groff (the "Groffs"), defendant, Citizens Bank of Clovis ("CBC") took an interest in the Groffs' cattle to secure a debt. At the time the security interest was created, CBC was unaware that the Groffs gave a cattle-seller, Agri-Tech Services, a purchase money interest in the cattle. CBC was also unaware that the cattle were owned by the joint venture the Groffs entered into with Ed Pickering. After the Groffs filed bankruptcy, CBC asserted that the cattle were protected by the after-acquired property clause in the security agreement. The bankruptcy court disagreed, concluding that CBC was a creditor of the Groffs as individuals. Specifically, CBC was not a creditor of the joint venture. On appeal, CBC contended that the bankruptcy court erred in applying partnership law to the join venture's property.

The Tenth Circuit discussed similarities between partnerships and joint ventures, determining that the only significant difference was the limited scope of the joint venture. The court determined that an individual can not assign rights of the partnership, and the partnership/joint venture assets are to be kept distinct from those of the individual debtors. Since the Groffs could not transfer an interest in the joint venture cattle, CBC could not maintain a security interest.