No. 19-759

In the
Supreme Court of the United States

MILO H. SEGNER, JR.,
Petitioner,
v.

CIANNA RESOURCES INCORPORATED,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Pursuant to 11 U.S.C. § 550, a bankruptcy trustee may not recover an avoided fraudulent transfer from a subsequent transferee who "takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided." The Bankruptcy Code does not define good faith, but longstanding federal case law holds that good faith under § 550 turns on whether the transferee knew or reasonably should have known of the insolvency or fraudulent intent of the debtor.

The Fifth Circuit affirmed the district court's judgment below in favor of a subsequent transferee under § 550 after a jury determined that the transferee took for value, in good faith, and without knowledge of voidability. The jury was presented with all relevant evidence, and all parties agree that the jury was properly instructed on the applicable legal standard for good faith under § 550.

Should this Court grant certiorari in order to adopt a bright-line rule that the overpayment of documentary stamp taxes on recorded deeds for mineral interests precludes a factual finding of good faith under 11 U.S.C. § 550 as a matter of law where there has been no adjudication that such overpayment of stamp taxes constitutes a violation, criminal or otherwise, of the state statute imposing such taxes and where the transferee's overpayment of documentary stamp taxes has no bearing on whether the transferee knew or

reasonably should have known of the debtor's insolvency or fraudulent intent to operate a Ponzi scheme?

2. Did the Fifth Circuit err in finding no abuse of discretion relative to the district court's formulation of the jury verdict form that asked the jury to determine whether the transferee took the entirety of the funds it received for value, in good faith, and without knowledge of voidability?

CORPORATE DISCLOSURE STATEMENT

Respondent, Cianna Resources, Inc., states that it has no parent company, and no public company owns 10% or more of its stock.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES AND CODES

INTRODUCTION

Cianna Resources, Inc. ("Cianna") proved to the satisfaction of a jury that the funds it received as a subsequent transferee were taken in good faith, for value, and without knowledge of voidability, and that it was therefore not liable on the claims of the Trustee under 11 U.S.C. § 550 of the Bankruptcy Code. The payments to Cianna that the Trustee sought to recover were made in connection with its work as a sub-broker acquiring mineral interests in Oklahoma for Ruthven Oil & Gas, LLC ("Ruthven"), which was the primary broker acquiring mineral interests on behalf of Provident Royalties, LLC ("Provident") and its affiliated entities (the "Provident Debtors"). Unbeknownst to Cianna, and unrelated to Cianna's acquisition of mineral interests, Provident raised money from a number of outside investors and was operating as a Ponzi scheme by using new investor funds to pay prior investors. Ultimately, the Provident Debtors filed for bankruptcy.

Of the $21 million sought by the Trustee to be recovered from Cianna, approximately $14.7 million was paid by Cianna to the various sellers of the mineral interests Cianna acquired for Ruthven. Cianna retained only its agreed-upon commission for brokerage services. Cianna acquired more than 18,000 net mineral acres for Ruthven, which were subsequently assigned to Provident. Cianna delivered clean and marketable title to these mineral interests and provided a warranty of title.

As Bankruptcy Trustee, Milo H. Segner, Jr. ("Segner") tried to recover the entire $21 million in

transfers, including not only Cianna's commission but also the amount flowing through Cianna to the sellers of the mineral interests it acquired. The jury found that Cianna received these funds in exchange for value, in good faith, and without knowledge of voidability, and the district court rendered judgment in favor of Cianna accordingly. The Fifth Circuit affirmed the judgment, finding no reversible legal error and concluding that the jury's verdict was not against the great weight of the evidence.

Segner now challenges the Fifth Circuit's affirming decision on the grounds that: 1) Cianna's overpayment of documentary stamp taxes, in alleged violation of Oklahoma law, precluded a finding of its good faith as a matter of law, and 2) the jury should have been required to answer 591 questions on the verdict sheet, representing the questions of good faith, value, and knowledge of voidability for each of the 197 transfers of mineral interests from Cianna to Ruthven, and ultimately to Provident.

This Court should decline to grant Segner's Petition for Writ of Certiorari, as there is no conflict among the United States courts of appeal on the legal issues presented. Segner did not object to the district court's jury instruction on the definition of good faith for purposes of § 550, and the district court's instruction properly asked the jury to consider whether Cianna knew or reasonably should have known of the fraudulent intent of the Provident Debtors.

Further, there is no compelling need to adopt a bright-line rule that the overpayment of documentary stamp taxes on recorded deeds precludes a finding of

good faith as a matter of law, and this case is a particularly poor vehicle for adopting such a rule. Segner's entire argument "concern[ing] the role of criminal acts in deciding good faith" is contingent upon an unresolved question of state law. Despite Segner's repeated references to the "crimes" committed by Cianna, Cianna has never been accused of any crime or statutory violation by the State of Oklahoma, and there has been no finding or adjudication that Cianna's overpayment of stamp taxes constitutes a violation, criminal or otherwise, of the Oklahoma law imposing such taxes. In any event, Cianna's overpayment of stamp taxes has no bearing on whether it knew or reasonably should have known that the Provident Debtors were operating a Ponzi scheme by using new investor funds to pay prior investors.

Similarly, there is no compelling need for this Court to adopt a bright-line rule governing the jury verdict form for determining good faith under § 550. Segner argues that the district court should have required the jury to fill in the questions of value, good faith, and knowledge of voidability separately for each of the 197 individual transfers of mineral interests from Cianna to Ruthven. Due to the volume of transactions, this would have required the jury to respond to 591 separate special interrogatories. No United States court of appeal has ever held that the Bankruptcy Code requires separate good faith inquiries into each of a series of related and overlapping transfers, and the Second Circuit has held that there is no such requirement. *See Gredd v. Bear, Stearns Sec. Corp.*, 328 F. App'x 709 (2d Cir. 2009) (addressing good faith under 11 U.S.C. § 548). Segner's suggestion that the

jury "might have found" differently if required to express its findings as to each individual transfer is nothing more than groundless speculation.

STATEMENT OF THE CASE

In early 2008, Wendell Holland of Ruthven contacted Kyle Shutt of Cianna for help in acquiring oil and gas interests across Oklahoma for Ruthven's "Dallas client." ROA.25356:13-24. The Dallas client was later revealed to be Provident. ROA.25518:9-15. Prior to 2008, Cianna had worked with Ruthven on an 18-section prospect, wherein Cianna sold mineral interests to Ruthven for its Dallas client and Cianna received $500 per-acre commissions for each transfer. ROA.25355:23-25356:12.

When Ruthven contacted Cianna in 2008, Ruthven explained that the prospect known as the Spindletop Prospect covered more than 250,000 acres and that Ruthven, if hired as the broker for the Spindletop Prospect, would need Cianna's help to find and buy mineral interests. ROA.25356:13-25358:6. Mr. Shutt was an experienced mineral broker who started Cianna in 1991, after working ten years in the Oklahoma oil and gas industry as a landman. ROA.25326:17-25327:4.

For the Spindletop Prospect, Mr. Shutt agreed to acquire mineral interests for Ruthven in exchange for Cianna's standard commission of five hundred dollars per acre. ROA.25357:2-12. Mr. Shutt later agreed to lower Cianna's per acre commission due to the success of the prospect and the amount of mineral acres being acquired. ROA.25423:6-16. Petitioner's allegation that Cianna "flipped each interest to Ruthven at double the

price" is false and unsupported by the record. For the entire project, Cianna's average gross commission was under $400 per acre it delivered to Ruthven for assignment to Provident, netting Cianna a profit after expenses, taxes, and tithe, of $3.2 million. ROA.25417:10-25418:3, 26249:4-15.

As a sub-broker, Cianna acquired mineral interests for Ruthven, and Ruthven sold those interests to Provident. ROA.22943-22944, 25421:19-25422:17. Cianna never had direct contact with Provident, as all directions came from Ruthven. ROA.25422:11-17. At all times, Ruthven knew the exact amount of Cianna's commissions. ROA.25422:18-25423:16.

After Cianna began working on the project, Ruthven told Cianna that Provident wanted to memorialize the agreement with a "Sub-Broker Agreement," which Cianna signed in May of 2008. ROA.25358:18-25359:5, 25413:5-18, 28696. The Sub-Broker Agreement contained highly restrictive non-compete provisions that prohibited Cianna from purchasing minerals in the Spindletop Prospect for its own benefit or for the benefit of other clients. ROA.25413:24-25414:8, 28700, 28709-28714. Cianna also agreed to strict confidentiality provisions that prohibited disclosure of any information related to the Spindletop Prospect or the Sub-Broker Agreement. ROA. 25415:21-25416:6, 28699-28700, 28705-28708.

Over the course of the enterprise, Cianna acquired more than 18,000 net mineral acres for Ruthven/ Provident, provided clean and marketable title thereto, and delivered warranty of title for the interests. ROA.26152:3-8, 26177:16-18, 26181:10-12. Whenever

title to mineral interests needed clearing, Cianna took full responsibility for clearing the clouded title. ROA.30206-30210, *see also* ROA.25567:17-25568:5, 25569:3-24, 26039:13-26040:5.

Mr. Shutt included Cianna's agreed-upon commission in the sale price for purposes of calculating the documentary stamp tax due on the sale. ROA.25463:25-25464:6. Cianna followed this practice on non-Provident interest transfers as well, as do many in the Oklahoma oil and gas industry, so that competitors would not be able to determine the exact price of the interests sold. ROA.25350:23-25351:5, 25548:20-25549:20, 25799:8-17. Cianna has never had any complaint about the method by which it calculates and pays the documentary stamp tax. ROA.25549:17-20. Cianna has never been accused by any local or state official of violating Oklahoma law by overpaying the stamp tax. ROA.25550:12-16. Trial testimony established that overpaying the documentary stamp tax is a common industry practice to stay competitive in buying and selling mineral interests. ROA.25799:8-17.

During the course of its work for Ruthven, Cianna never heard anything negative about Provident and had no reason to suspect any wrongdoing by Provident with respect to its acquisition of minerals in Oklahoma. ROA.25438:15-22, 25448:4-19. The SEC receiver testified that there was no evidence that any of the money paid to Cianna was ever "siphoned off" or "kicked back" to the principals of Provident or their affiliated entities. ROA.26404:14-20, 26405:7-17, 26407:7-26408:7. The Provident Debtors were made

aware of the amount paid by Cianna for the stamp taxes by one of the mineral owners from whom Cianna had acquired mineral interests. ROA.30215. In response, Cianna asked Ruthven to notify Provident that "[it] may feel free to look at Cianna's books at any time to verify what is being paid for the minerals, and what they are being sold to Ruthven for." ROA.28525. Neither Ruthven nor Provident ever objected to Cianna's method of paying the stamp taxes on mineral deeds. ROA.25425:1-9.

Cianna's work for Ruthven and Provident ended in October 2008. ROA.25423:17-19. In July of 2009, ten months after Cianna had completed its work on the project, the Provident Debtors filed for bankruptcy. ROA.25948:16-21. Segner was appointed as Trustee of the PR Liquidating Trust in June of 2010. *Id*. Pursuant to 11 U.S.C. § 550, Segner attempted to recover roughly $21 million from Cianna as a subsequent transferee, more than $14 million of which had been paid out to mineral owners. ROA.25417:10-25418:3.

At trial, the district court instructed the jury to look at all the facts and circumstances when determining whether Cianna acted in good faith: "Generally, you must determine whether Cianna was on notice of the fraudulent nature of the transactions that resulted in it receiving the money from Provident via Ruthven." ROA.22948. The district court added that, in answering the question of whether Cianna had notice, "Cianna must have shown that it lacked information that would put a reasonable person in Cianna's line of work on notice of fraudulent intent underlying the transactions at issue." *Id.* Further, if Cianna did in fact have

information that would put a reasonable person on notice, "Cianna must have shown that a diligent inquiry would not have discovered the fraudulent purpose." *Id.*

The Fifth Circuit Court of Appeals affirmed the district court's entry of judgment for Cianna after the jury found that Cianna was a good-faith subsequent transferee under the Bankruptcy Code. For the reasons stated herein, this Court should deny Segner's Petition for Writ of Certiorari.

REASONS FOR DENYING THE WRIT

I. There is no conflict between the Fourth Circuit's decision in *Goldman* and the Fifth Circuit's affirming decision in this case.

In petitioning this Court, Segner mischaracterizes a Fourth Circuit holding so as to create a conflict that does not exist. Segner contends that the Fourth Circuit, in *Goldman v. Capital City Mortg. Corp.*, "held that evidence of criminal conduct by others cannot establish the observance of reasonable commercial practices necessary to prove good faith under the [Bankruptcy] Code." Pet. at 3; 648 F.3d 232 (4th Cir. 2011). What the Fourth Circuit actually held was that "the objective good-faith standard probes what the transferee knew or should have known … taking into consideration the customary practices of the industry in which the transferee operates." *Goldman*, 648 F.3d at 240-41. The sole mention of any conduct in violation of a statute occurred in the Fourth Circuit's broader discussion of "the development of the good faith standard *in other*

areas of commercial law," *see id.* at 239-40 (emphasis added), wherein the court noted:

> Under the objective prong, a party acts without good faith by failing to abide by routine business practices. See *Rudiger Charolais Ranches v. Van de Graaf Ranches*, 994 F.2d 670, 672-73 (9th Cir. 1993) (reasonable commercial practice includes a 'custom or practice' unless in conflict with a statute); see also Grant Gilmore, *The Commercial Doctrine of Good Faith Purchase*, 63 Yale L.J. 1057, 1122 n.22 (1954) (good faith standard captures routine business practices of industry).

Id. at 240. Segner contends that by including this parenthetical summary of the Ninth Circuit's decision in *Rudiger*, the Fourth Circuit has somehow adopted a bright-line rule for the good faith standard that incorporates the holding in *Rudiger*, a contention that is wholly unsupported by the Fourth Circuit's opinion in *Goldman*. Even if this citation could be interpreted in the manner suggested by Segner, the Ninth Circuit's decision in *Rudiger* does not create a conflict necessitating review by this Court for several reasons.

First, *Rudiger* involved a cattle transaction governed by the Uniform Commercial Code ("UCC"), which defines good faith as requiring "honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade." U.C.C. § 9-102(a)(43). The Bankruptcy Code does not define good faith, leaving courts to consider the totality of the circumstances on a case-by-case basis. See *Jimmy Swaggert Ministries v. Hayes (In re Hannover Corp.)*, 310 F.3d 796, 800-01

(5th Cir. 2002) (providing that "good faith" is not defined in the Bankruptcy Code, advising "caution in attempting to propound a broad rule concerning 'good faith' for § 548(c)"). The latitude that courts have to analyze mediate transferees under the Bankruptcy Code does not create a conflict merely because the UCC provides a more narrowed definition of good faith for a different type of purchaser.

Second, the cattle buyer in *Rudiger* failed to follow a statute that directly addressed the cattle industry's informal business practices. *Rudiger*, 994 F.2d at 673. In *Rudiger*, the cattle buyer argued he was a good-faith purchaser of the cattle under the UCC because he followed the reasonable commercial practices of the cattle industry, even though he failed to verify the seller owned the cattle before taking possession. *Id.* at 672. At the time of purchase, Washington law stated that "[n]o person shall have in his possession any livestock marked with the recorded brand or tattoo of another person" unless certain requirements dealing with branding and inspection were met by the buyer. *Id.* Viewing this statute in the context of the UCC, the Ninth Circuit found that the cattle buyer did not act in good faith by failing to verify the seller's title before taking possession of the cattle. *Id.* at 673.

While the Washington statute in *Rudiger* addressed the issue of gaining title to property that might be held by another, the statute at issue in this case is wholly irrelevant to a good-faith transferee analysis. The Oklahoma Documentary Stamp Tax Act ("ODSTA") requires parties to a property transaction to affix a document stamp to the resulting deed so that taxes

may be imposed on the sale of property. 68 O.S. § 3201, *et seq*. The main purpose of the ODSTA is to collect taxes on property transfers, not to ensure that property grantors verify that funds they receive from grantees cannot later be claimed by third parties.

More importantly, the Fourth Circuit has recently opposed Segner's proffered bright-line rule on good faith and routine business practices. In *Gold v. First Tenn. Bank Nat'l Ass'n (In re Taneja)*, the bankruptcy trustee relied on *Goldman* to argue that "the bank, as a matter of law, was unable to prove good faith without showing that 'each and every act taken and belief held' by the bank constituted 'reasonably prudent conduct by a mortgage warehouse lender'." 743 F.3d 423, 430 (4th Cir. 2014). The Fourth Circuit disagreed with the trustee:

> While the trustee correctly observes that the objective good-faith standard requires consideration of routine business practices, the trustee's position well exceeds the requirement that a court consider 'the customary practices of the industry in which the transferee operates.' **We decline to adopt a bright-line rule requiring that a party asserting a good-faith defense present evidence that his every action concerning the relevant transfers was objectively reasonable in light of industry standards**. Instead, our inquiry regarding industry standards serves to establish the correct context in which to consider *what the transferee knew or should have known*.

Gold, 743 F.3d at 431 (emphasis added).

Similarly, the Fifth Circuit's definition of good faith in the context of subsequent transferee hinges on "whether the claimant was on notice of the debtor's insolvency or the fraudulent nature of the transaction." *Horton v. Walter O'Cheskey (In re Am. Hous. Found.)*, 544 F. App'x 516, 520 (5th Cir. 2013). "Once a transferee has been put on inquiry notice of either the transferor's possible insolvency or of the possibly fraudulent purpose of the transfer, the transferee must satisfy a 'diligent investigation' requirement." *Templeton v. O'Cheskey (In re Am. Hous. Found.)*, 785 F.3d 143, 164 (5th Cir. 2015).

There is no conflict between the Fourth Circuit and Fifth Circuit in determining good faith under the Bankruptcy Code. Both courts look to what the transferee knew or should have known about the debtor's insolvency or fraud. The district court properly instructed the jury by defining the applicable legal standard for Cianna's good faith defense, and Segner did not object to this instruction at trial. ROA.21838, 24159.

As succinctly stated by the district court, Segner's reliance on the alleged violation of the ODSTA "ignores that Cianna's good faith hinged on what it knew or should have known about Provident." ROA.24159. Cianna's alleged violation of the ODSTA "does not establish as a matter of law that Cianna knew or should have known that Provident was defrauding its investors." *Id.*

There is no meaningful conflict between the United States courts of appeal regarding the definition of good faith under § 550 and, in any event, Segner failed to

preserve any objection to the district court's jury instruction on this issue. There is no compelling reason justifying review of the Fifth Circuit's decision, and the petition must therefore be denied.

II. Grouping the transfers together for the question of Cianna's good faith did not shift the burden of proof from Cianna to Segner.

At trial, Cianna had the burden to prove that it took all transfers from Ruthven for value, in good faith, and without knowledge of the transfers' voidability. Segner proposed to the district court that the jury should be required to answer whether Cianna met that burden for each transfer involved in the Spindletop Prospect. The Spindletop Prospect included 197 transfers of mineral properties from Cianna to Ruthven. For the three questions of value, good faith, and lack of knowledge, the jury would have had to answer to 591 separate inquiries. The lower court rightfully refused to accept Segner's proffered format, and instead grouped the transfers together for each of the three questions relating to the elements of Cianna's affirmative defense.

Segner argues on appeal that the question submitted to the jury flipped the burden of proof from Cianna to Segner. Segner alleges that "[t]he all-or-nothing question enabled Cianna to prove its good faith in 197 transfers over an eight-month period by convincing the jury it acted in good faith on the first transfer." The exact opposite is true. Cianna had the burden to prove its good faith on all 197 transfers, to include the very last transfer, before the jury could

decide that Cianna had established its affirmative defense. As Segner submitted evidence at trial of alleged "mounting red flags," Cianna actually bore the greatest risk of grouping the jury instruction, not Segner.

Segner cannot support his contention that, when multiple transfers are at issue, a jury is required to answer as to the transferee's good faith for each individual transfer. Rather, courts have consistently viewed a transferee's good faith over a period of time where there are multiple transactions. See *Gredd v. Bear, Stearns Sec. Corp.*, 328 F. App'x 709, 710 (2d Cir. 2009) (finding no authority or compelling argument for separating multiple transactions for individual inquiries of good faith); *Meeks v. Red River Entm't (In re Armstrong)*, 285 F.3d 1092 (8th Cir. 2002) (evaluating a transferee's conduct over the span of one year where transferee received multiple transactions); *Jobin v. Cervenka (In re M&L Business Machine Co.)*, 194 B.R. 496 (D. Colo. 1996) (evaluating a series of post-dated checks to find whether a transferee took Ponzi scheme proceeds in good faith without inquiring into each separate transfer).

Even if other courts could have separated some or all of the transfers, a reviewing court should not overturn a lower court's jury charge unless the jury charge included an "obviously incorrect statement of law," that "was probably responsible for an incorrect verdict, leading to substantial injustice." *Tompkins v. Cyr*, 202 F.3d 770, 784 (5th Cir. 2000); See also *Oladeinde v. City of Birmingham*, 230 F.3d 1275, 1296 (11th Cir. 2000) ("We review de novo the question

whether the court's instructions to the jury misstated the law or misled the jury to the prejudice of the objecting party."); *United States v. Taylor*, 814 F.3d 340, 364 (6th Cir. 2016) ("A jury instruction supports overturning a sentence only if the jury instructions, as a whole, were confusing, misleading, or… prejudicial.").

Nothing about the lower court's refusal to separate the 197 transfers amounts to an obviously incorrect statement of law. The jury found that Cianna established its burden to prove its good faith and affirmative defense for all of the transfers at issue. Even though the jury did not have to answer hundreds of separate inquiries, the jury did in fact answer the question of Cianna's good faith throughout the entire prospect.

Segner speculates in his Petition that the jury "might have found" differently if Segner's proposed jury form were used. This argument is premised on nothing more than rank speculation, and is not sufficient grounds upon which to disregard the jury's verdict. *Howard D. Jury, Inc. v. R & G Sloane Mfg. Co.*, 666 F.2d 1348, 1352 (10th Cir. 1981); *see also Knight v. Texaco, Inc.*, 786 F.2d 1296, 1299 (5th Cir. 1986) ("We will not upset a verdict on the basis of such speculation"); *Midwest Underground Storage, Inc. v. Porter*, 717 F.2d 493, 501 (10th Cir. 1983) ("It is well settled that a verdict will not be upset on the basis of speculation as to the manner in which the jurors arrived at it.").

Segner's argument is not only speculative, it is also inconsistent with the jury's verdict and the express finding that Cianna acted in good faith with respect to

the entirety of the funds it received from Provident via Ruthven. This Court presumes that "juries act in accordance with the instructions given them, … and that they do not consider and base their decisions on legal questions with respect to which they are not charged." *City of Los Angeles v. Heller*, 475 U.S. 796, 798–99, 106 S. Ct. 1571, 1572–73, 89 L. Ed. 2d 806 (1986) (citing *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585, 604, 105 S. Ct. 2847, 2858, 86 L. Ed. 2d 467 (1985)).

III. This case is a poor vehicle to decide what constitutes good faith under the Bankruptcy Code.

This case is a poor vehicle to determine the issue of whether a subsequent transferee's noncompliance with a state statute precludes a finding of good faith because Segner waived the issue at trial. In the course of determining jury instructions, Segner failed to request that the lower court use the UCC definition of good faith, and instead agreed to the standard utilized by the Fifth Circuit: a two-part inquiry questioning whether Cianna had information that would have put a reasonable person on notice of the fraudulent nature of a transaction, and if so, whether a diligent inquiry would have revealed the fraudulent purpose. Segner waived his right to seek appellate review of the good faith jury instruction, but now seeks review based upon the legal standard applied. ROA.21838, 24159.

Moreover, Segner's contention about the alleged conflict between the circuit courts of appeal regarding the definition of good faith under § 550 is premised upon "the role of criminal acts in deciding good faith."

Pet., 13. But Cianna has never been accused of, much less convicted of, any criminal act. In order to reverse the decision below, this Court must not only determine that a conflict exists between the circuit courts regarding the role of criminal acts in determining good faith under § 550, a conflict which does not exist, it must also determine that Cianna has, in fact, committed a criminal act by overpaying the documentary stamp tax imposed under Oklahoma law. Whether Cianna's overpayment of stamp taxes constitutes a criminal violation of Oklahoma law was not addressed by the lower courts and has never been adjudicated in any other case because Cianna has never been charged with any crime.

Finally, to adopt the bright-line rule proposed by Segner, and to apply it to this case to determine that Cianna lacked good faith as a matter of law, would be a significant departure from the established case law on good faith under § 550. The overwhelming majority of courts to address the issue have determined that good faith hinges on whether the transferee knew or should have known of the insolvency or fraudulent intent of the debtor. The alleged "criminal" conduct by Cianna relates solely to its own decision to overpay stamp taxes on mineral deeds and has no relationship whatsoever to the Ponzi scheme operated by the Provident Debtors. Whether "criminal" or not, Cianna's overpayment of stamp taxes has no bearing on whether Cianna knew or reasonably should have known that the Provident Debtors were operating a Ponzi scheme by using new investor funds to pay prior investors.

CONCLUSION

This case does not merit further time or attention by this Court. Accordingly, Segner's Petition for Writ of Certiorari should be denied.

Dated this 13th day of January, 2020.

Respectfully submitted,

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