

SYNOPSIS OF THE CASE

2012 MT 144; OP 11-0558: BILLIE L. REDDING, Petitioner v. MONTANA FIRST JUDICIAL DISTRICT COURT, THE HONORABLE DOROTHY McCARTER, Presiding.¹

In a case involving the sale and purchase of complicated real estate investment schemes known as tenants-in-common investments (TICs), the Montana Supreme Court held that the TICs in question were securities under the Securities Act of Montana.

Billie Redding is an elderly woman who sold her family ranch in 2004. After speaking with her long-time accountant and another company called Acquiron, Redding purchased four TICs in 2004 from an Idaho-based promoter, known as DBSI, using the proceeds of the ranch sale. Redding's money was pooled with money from other investors to purchase commercial rental property, which was then leased back to DBSI, who then rented it to commercial tenants. In return for investing their money, DBSI promised a certain rate of return to the investors. Subsequently, the investment scheme failed and DBSI went bankrupt. Redding sued her accountants in 2009 alleging (among several claims) that they had violated Montana law regulating the sale of securities. Montana laws require individuals engaged in the sale of securities to be registered and that securities offered for sale be approved by the State.

The District Court determined that the TICs Redding purchased were not securities under Montana law. Redding asked the Montana Supreme Court to review the District Court's decision. Following oral argument and review of the record, the Supreme Court found the TICs to be securities under the Securities Act of Montana and sent the case back to the District Court for further proceedings. Specifically, the Supreme Court decided the TICs were securities because of the manner in which they were promoted; the relationship between the investors, and between the investors and DBSI; and because the investors were not expected to exercise managerial control over the investment, nor did they have any meaningful managerial control.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.