

**FILED**

DEC - 8 2010

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY \_\_\_\_\_ DEPUTY

U.S. COMMODITY FUTURES )  
TRADING COMMISSION and )  
OKLAHOMA DEPARTMENT OF )  
SECURITIES ex rel. IRVING . L )  
FAUGHT, )

Plaintiffs, )

v. )

PRESTIGE VENTURES CORP., a )  
Panamanian corporation, FEDERATED )  
MANAGEMENT GROUP, INC. A Texas )  
corporation, KENNETH WAYNE LEE an )  
individual, and SIMON YANG (a/k/a )  
XIAO YANG a/k/a SIMON CHEN), an )  
individual, )

Defendants, and )

SHEILA M. LEE, an individual, DAVID A. )  
LEE, an individual, and DARREN A. LEE, )  
an individual, )

Relief Defendants, )

Case No. 09-CV-1284 (DLR)

Defendants Kenneth Lee's

MOVE FOR RECONSIDERATION  
AND RELIEF FROM JUDGMENT  
UNDER RULES 59 AND 60 ON  
THE GROUNDS THAT:

1. The record demonstrates that there is a genuine issue of material fact as to whether the properties belonging to Kenneth Lee are the fruits of unlawful activity and therefore whether penalties or sanctions are appropriate.

a. Plaintiffs never disclosed and hid the fact the documents were presented to Plaintiffs that Kenneth Lee did invest and transfer personal funds into Prestige Ventures. Plaintiffs kept these facts from The Court after being presented repeatedly by Defendant that funds were invested into Prestige and used to purchase a home for Defendant Lee.

2. The Court did not provide proper notice of any hearing to impose penalties and sanctions.

a. Defendant Lee was not advised that the Court trial was not going to be able to discover the evidence that funds were invested in Prestige and Plaintiffs filed a Motion with The Court that did not disclose these facts. Vital information was withheld from The Court by Plaintiffs. The Court did not have all necessary documents and proof that Defendant had invested or caused personal funds to be deposited into Prestige Ventures,

b. Plaintiffs admit they cannot account for more than \$1,300,000 that was invested into Prestige Ventures and would never answer the question as to whether or not they could account for whose funds they were. Rather than Plaintiffs consider the fact that Defendant invested these funds they added the amount to what they alleged were the amounts invested by others.

3. The Government denied the undersigned due process of law by seizing all assets through an ex parte order and thereby deprived the undersigned of his fundamental right to counsel.

a. Defendant Lee was denied due process of law by not having any funds available to secure legal counsel in this matter. No attorney would take this case due to Defendant Lee being unable to provide any method of payments for proper representation. All assets were frozen in the SRO and no

funds were available and Defendant was not allowed by the SRO to borrow or encumber himself for funds necessary for proper legal counsel.

4. The Order under review makes no mention or considers the undersigned homestead exemptions to which he is entitled as a matter of law.

a. No information was made available to the Court that South Carolina has a mandatory homestead law and consideration should be made for this law. Plaintiffs hid this information from The Court or did not disclose the fact that there may even be a homestead law in the State of South Carolina. Plaintiffs could have easily found the Homestead Law for South Carolina in Title 15-41-1 after Defendant advised that there was in fact a Homestead Law in South Carolina.

b. Defendant was told during his August 2010 Deposition that the Plaintiffs did not want to seize the Defendant's and/or Relief Defendant's home, and that perhaps a settlement could be reached. No settlement was offered that included these terms.

5. There was newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b).

a. Evidence was discovered prior to the trial date that would have made it known to the Court that Defendant had invested heavily into Prestige Ventures for the benefit of Defendant. This information was never made available to the Court and leads to a judgment against Defendant that did not account for all the facts available for review by the Court. This evidence is copies of cashiers' checks, statements from Panama Investment Account, emails between account manager and emails between a customer that wanted to release his position in Prestige Ventures to Relief Defendants and Defendant. This withheld information was detrimental to the Defendant and Relief Defendants in the Courts ruling and resulted in a much more severe ruling.

b. The Court could not have known about these facts as they were not made available in the **PLAINTIFFS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**. Evidence to this fact was sent to The Court on November 23, 2010 in Defendant and Relief Defendant's **Response to PLAINTIFFS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** and was filed on November 29, 2010. This is the day the Judgment was lodged against Defendant Lee, Defendant Yang, and the Relief Defendants. Had the Court been able to review this information that was in the **Response to PLAINTIFFS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**, that was not disclosed by Plaintiffs, it is felt the Court would have had questions for the Plaintiffs. Plaintiffs withheld and denied evidence to the Court that would have cast a different light on Relief Defendants and Defendants.

c. Relief Defendants and Defendants are at a disadvantage in being able to respond to any Motions from Plaintiffs as they are mailed to Relief Defendant and Defendant and electronically filed with the Court from Plaintiffs. This results in a three (3) to five (5) day delay in Relief Defendants and Defendants receiving any documents filed with the Court and the same delay in Relief Defendants and Defendants response back to The Court.

6. There were misrepresentations and misconduct by the opposing party pertaining to their refusal to turn over discoverable documents and failing to disclose pertinent information that is crucial to the fairness and integrity under what is rightfully the Defendant's rights for a fair trial

a. Defendant requested information from the Plaintiffs and was in all cases denied this information. At one time they denied that they were even the Plaintiffs and asserted that the customers were the Plaintiffs and they did not want the information released. Also Plaintiffs claimed

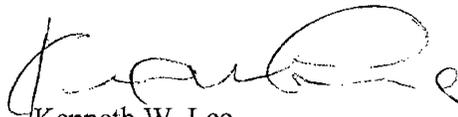
Attorney Client Privilege and said they would not release this information to Defendant. Defendant was not provided copies of his deposition in August 2010. Copies of documents shown to Defendant at his deposition were not made available to Defendant that would have helped Defendants case by providing to The Court arguments against the Plaintiffs charges.

b. It is impossible for the Defendants and Relief Defendants to answer the Plaintiffs Motion of Summary Judgment because the first Admissions, Interrogatories, and Document request on August 10, 2010 and did not receive their refusal to answer any of the request until September 10, 2010.

Relief Defendant Darren Lee then proceeded to clarify the Admissions for the Commission and sent it to them on September 15, 2010. The Commission refused to attempt answering the request on the same day, The Motion for Summary Judgment was submitted on September 1, 2010. It is not in due process to surprise Defendants and Relief Defendants with evidence that has been in the Commissions possession prior to the four (4) days notification, to the Defendants and Relief Defendants, before trial, especially when that evidence supports your case of owning your dwelling and bank accounts. This is clearly stated in Rule 60(b)(1).

Dated: December 4, 2010

Respectfully Submitted:



Kenneth W. Lee  
1660 Jorrington St.  
Mt Pleasant, SC 29466

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 4, 2010, I caused one copy of **Defendant Kenneth Lee's MOVE FOR RECONSIDERATION AND RELIEF FROM JUDGMENT UNDER RULES 59 AND 60** to be served by U.S. Mail on the following:

James H. Holl III  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

Terra Shamas Bonnell  
Oklahoma Department of Securities  
120 North Robinson Avenue, Suite 860  
Oklahoma City, OK 73102