

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

U.S. COMMODITY FUTURES )  
TRADING COMMISSION and )  
OKLAHOMA DEPARTMENT OF )  
SECURITIES *ex rel.* IRVING L. FAUGHT, )  
 )  
Plaintiffs, )  
 )  
v. ) Case No. 09-cv-1284 (DLR)  
 )  
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 LEE, an )  
individual, )  
 )  
Relief Defendants. )

**RECEIVER'S RESPONSE TO DARREN LEE'S  
MOTION TO DIVEST RECEIVER**

Stephen J. Moriarty, as Receiver ("Receiver") for Prestige Ventures Corp., Federated Management Group, Inc., Kenneth Wayne Lee, Simon Yang, Sheila M. Lee, David A. Lee and Darren Lee (collectively the "Prestige Defendants") hereby files his response in opposition to Darren Lee's Motion to Divest Receiver, filed herein on April 20, 2011 (the "Motion to Divest") (Doc. # 174).

## INTRODUCTION

Receiver has in his possession cash in the sum of \$470,785.23 which is on deposit in an account maintained at Bank of Oklahoma (Downtown Oklahoma City Branch) (the “BOK Account”) and which represents the proceeds from the sale of two (2) homes in Mt. Pleasant, South Carolina. The Motion to Divest seeks to remove these funds from the Receiver and, presumably, return them to Kenneth, Sheila, David and Darren Lee.

## BACKGROUND

1. On November 20, 2009, U.S. Commodities Futures Trading Commission and Oklahoma Department of Securities ex rel. Irving L. Faught (collectively “Plaintiffs”) commenced this action alleging that the Prestige Defendants, acting directly or through their agents, employees or officers, fraudulently solicited and accepted at least \$8.7 million from at least 140 members of the general public (the “Investors”) to participate in commodity pools for trading commodity futures contracts and other financial instruments, including stocks, stock options, and foreign currency. *Doc. # 4*.

2. On November 20, 2009, this Court entered a Statutory Restraining Order and Order appointing Receiver for the Prestige Defendants (the “Order”). *Doc. # 9*, as amended on March 4, 2010 by *Doc. # 36*. Pursuant to the Order, Receiver was directed to (a) take possession of all assets of the Prestige Defendants, (b) secure the residential and business assets of the Prestige Defendants, and (c) initiate any action to preserve or increase the assets of the Prestige Defendants. *Id., at par. 27 (b), (c) and (h)*.

3. On December 9, 2009, a copy of the Order was filed in the real estate records of Charleston County, South Carolina to put third parties on notice of the claims against the Prestige Defendants.

4. On March 9, 2010, Kenneth Lee filed a Motion to Stay the Receivership. *Doc. # 48.*

5. On April 29, 2010, Sheila, David and Darren Lee each filed Motions to Stay the Receivership. *Docs. # 76, 78 and 79.*

6. On May 10, 2010, this Court entered its Order denying all Motions to Stay the Receivership. *Doc. # 81.*

7. On October 27, 2010, this Court entered its Order granting Plaintiffs summary judgment against the Prestige Defendants on the issue of liability and scheduling a bench trial for November 8, 2010 to address the issue of damages. *Doc. #120.*

8. On November 8, 2010, this Court conducted a bench trial on the issue of damages. *Doc. # 127.* Kenneth, Sheila, David and Darren Lee did not appear for trial. The Court received evidence and testimony from the Plaintiffs.

9. On November 29, 2010, this Court entered an order finding that (a) Kenneth Lee and Sheila Lee's residence, having a legal description of Lot 30, Phase 2A, Berkleigh at Parkwest, Mt. Pleasant, Charleston County, South Carolina, street address 1660 Jorrington Street, Mt. Pleasant, South Carolina (the "Kenneth and Sheila Lee Residence") and (b) Darren Lee's residence, street address 2676 Palmetto Hall Blvd., Mt. Pleasant, South Carolina (the "Darren Lee Residence") were purchased with funds

received by the Prestige Enterprise from investors and are assets of the Prestige Enterprise (the “November 29, 2010 Order”). *Doc. # 131 at p. 3, pars. 7 and 8.* The Court ordered that Receiver was authorized to take possession of, market and sell the Kenneth and Sheila Lee Residence and the Darren Lee Residence and to take all actions necessary to close such sales including, but not limited to, (a) retention of real estate professionals, brokers and/or auctioneers, (b) execution of a deed, bill of sale or other conveyance document and (c) payment of a reasonable real estate commission and/or auctioneer fee. *Id., at p. 7, par. 1.* Finally, the November 29, 2010 Order directed that Kenneth Lee, Sheila Lee and Darren Lee vacate the premises within twenty (20) days. *Id., at p. 8, par. 2.*

10. The November 29, 2010 Order entered judgments in the following amounts:

Kenneth Lee	\$5,857,503.00 <sup>1</sup>
Sheila Lee	\$711,845.00
Darren Lee	\$638,938.00
David Lee	\$574,273.00

*Id. at p. 8, pars. 3 and 5.*

11. On December 8, 2010, Kenneth, Sheila, David and Darren Lee each filed a Motion to Reconsider the November 29, 2010 Order. *Docs. # 134-137.*

12. On December 9, 2010, Kenneth, Sheila, David and Darren Lee filed a Notice of Appeal from the November 29, 2010 Order. *Doc. # 139.*

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<sup>1</sup> Kenneth Lee was also ordered to pay a civil monetary penalty in the amount of \$7.2 million. *Id. at p. 9, par. 7.*

13. On December 13, 2010, Kenneth, Sheila, David and Darren Lee filed a Motion to Stay the November 29, 2010 Order. *Doc. # 142.*

14. On January 13, 2011, the Court entered an Order denying the Lee's Motion to Stay the November 29, 2010 Order. *Doc. # 160.*

15. On January 19, 2011, a copy of the November 29, 2010 Order was filed in the real estate records of Charleston County, South Carolina to put third parties on notice of the claims against the Prestige Defendants.

16. On January 27, 2011, Kenneth, Sheila, David and Darren Lee filed a Motion to Stay Judgment and Receivership with the 10th Circuit Court of Appeals.

17. On January 31, 2011, the 10th Circuit Court of Appeals denied the Motion to Stay Judgment and Receivership.

18. On February 2, 2011, Kenneth, Sheila, David and Darren Lee filed a Motion to Reconsider the 10th Circuit Court of Appeals denial of their Motion to Stay Judgment and Receivership.

19. On February 4, 2011, the 10th Circuit Court of Appeals denied the Motion to Reconsider the denial of the Motion to Stay Judgment and Receivership.

20. On March 29, 2011, Receiver filed a copy of the Order in the United States District Court for the District of South Carolina, case no. 2:11-mc-0030.

21. On April 13, 2011, the sale of the Kenneth and Sheila Lee Residence was closed. The net proceeds from the sale (\$290,078.70) were deposited in the BOK Account. *Doc. # 171.*

22. On April 20, 2011, Darren Lee filed the Motion to Divest. *Doc. # 174.*

23. On April 27, 2011, the sale of the Darren Lee Residence was closed. The net proceeds from the sale (\$177,900.81) were deposited in the BOK Account. *Doc. #176.*

### ARGUMENTS AND AUTHORITIES

The Motion to Divest represents the last gasp effort of the Lees to retain part of the ill-gotten gain stolen from the 140 investors in Prestige Ventures Corp. For the reasons set forth herein, the Motion to Divest must be denied.<sup>2</sup>

Darren Lee argues that the Receiver has lost custody and control of receivership assets due to the failure to comply with 28 U.S.C. § 754 which requires that a copy of the order of appointment be filed within ten (10) days of its entry in the district court of all districts where property is located. This argument fails for several reasons.

First, Darren Lee ignores the effect of the November 29, 2011 Order. The homes were not sold pursuant to the order appointing receiver, but pursuant to the November 29, 2010 Order. This Court, after a bench trial (a trial in which the Lees did not participate), found the homes should be sold for the benefit of the investors. The Lees unsuccessfully attempted to stay execution of the November 29, 2010 Order at the District and Circuit Courts. The Motion to Divest is simply one more attempt by the Lees to avoid the ramifications of the November 29, 2010 Order; it is a direct attack on the November 29, 2010 Order.

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<sup>2</sup> The Motion to Divest also seems to contain an objection to the Receiver's Motion for Attorney Fees. *Doc. # 173.* To the extent the Motion to Divest is an objection to the Motion for Attorney Fees, Darren Lee lacks standing to assert such an objection. *See Order, p. 15, par. 32.*

In addition, the remaining receivership assets consist solely of funds currently held in the BOK Account in Oklahoma City, within the Western District of Oklahoma. The filing requirements of 28 U.S.C. § 754 have no application to such property.

Even if 28 U.S.C. § 754 did apply, however, the Motion to Divest must still be denied. The Order was filed in the District Court of South Carolina on March 29, 2011. *See par. 20*. It is clear that a filing outside the ten (10) day period re-vests the control of any property in the receiver, as long as the rights of third parties have not been prejudiced during the intervening period. *See SEC v. Equity Service Corp.*, 632 F. 2d 1092, 1095 (3rd Cir. 1980). The record is devoid of any evidence that any third party has been prejudiced by any action or inaction of the Receiver. Darren Lee is not a “third party.” Darren Lee has been aware of the claims against him throughout this proceeding. He cannot claim any prejudice from lack of notice.<sup>3</sup>

For the reasons set forth herein, Receiver respectfully requests that this Court deny all relief sought by Darren Lee’s Motion to Divest Receiver.

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<sup>3</sup> The purpose of 28 U.S.C. § 754 is to put third parties on notice that certain property is under the jurisdiction of a foreign receiver. This was accomplished by filing the Order in the real estate records of Charleston County, South Carolina, *see par. 3.*, and by the filing of the November 29, 2010 Order in the real estate records of Charleston County, South Carolina. *See par. 3, 15.*

Dated May 6, 2011

/s/ Warren F. Bickford

Warren F. Bickford, OBA #773  
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**Attorneys for Stephen J. Moriarty, Receiver**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2011, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants: James Holl, Patricia A. Labarthe, Katherine S. Driscoll and Terra S. Bonnell.

I hereby certify that on May 6, 2011, a true and correct copy of the above and foregoing document was mailed by regular first class mail, postage prepaid, to:

SimonYang  
1912NW176thTerrace  
Edmond, OK 73012

Darren Lee  
2676 Palmetto Blvd.  
Mount Pleasant, SC 29466

Kenneth Lee  
1660 Jorrrington Street  
Mount Pleasant, SC 29466

David Lee  
2676 Palmetto Blvd.  
Mount Pleasant, SC 29466

Sheila Lee  
1660 Jorrrington Street  
Mount Pleasant, SC 29466

Darren Lee  
2216 Kings Gate  
Mt. Pleasant, SC 29466

/s/ Warren F. Bickford

Warren F. Bickford

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