

NOV 01 2010

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

PATRICIA PRESLEY, COURT CLERK
by _____ Deputy

FILED
SUPREME COURT
STATE OF OKLAHOMA

NOV - 1 2010

MICHAEL BICKME
CLERK

Brian McKye,)
)
 Defendant/Appellant,)
)
 vs.)
)
 Oklahoma Department of Securities)
 ex rel. Irving L. Faught, Administrator,)
)
 Plaintiff/Appellee.)

No. 108795

Oklahoma County No. CJ-2009-2773

**RESPONSE OF OKLAHOMA DEPARTMENT OF SECURITIES
TO PETITION IN ERROR**

Is appellee willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250?

X YES _____ NO

Attached as Exhibit "A" is the statement of the case of the Appellee, Oklahoma Department of Securities.

In accelerated appeals from orders granting motion for summary judgment or motion to dismiss **only** appellee shall also file concurrently with response any supplement to record on accelerated appeal. See Rule 1.36.

DATE: November 1, 2010.

Verified by:



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Attorneys for Oklahoma Department of Securities

CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

I hereby certify that a true and correct copy of the Response of Oklahoma Department of Securities to Petition in Error was mailed by U.S. Mail, with postage prepaid thereon, this 1st day of November, 2010, to the following:

The Honorable Noma D. Gurich
Judge of the District Court of Oklahoma County
304 Courthouse
321 Park Avenue
Oklahoma City, OK 73102

Brian McKye
PO Box 957
Jay, OK 74346

Stephen J. Moriarty
Fellers, Snider, Blankenship, Bailey and Tippens, PC
100 N. Broadway, Ste. 1700
Oklahoma City, OK 73102

I further certify that a copy of the Response of Oklahoma Department of Securities to Petition in Error was mailed to, or filed in, the office of the Oklahoma County Court Clerk this 1st day of November, 2010.

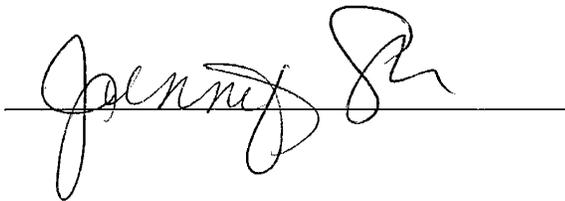


Exhibit "A" Appellee's Statement of the Case

On March 24, 2009, a *Petition for Permanent Injunction and Other Equitable Relief* was filed by the Oklahoma Department of Securities (ODS) against Global West Funding, Ltd., Co.; Global West Financial LLC; Sure Lock Financial, LLC; Sure Lock Loans LLC; and The Wave-Goldmade Ltd.; (collectively, "McKye Entities"), and Brian McKye (McKye), Joe Don Johnson, and James Farnham (Farnham). Heritage Estate Service LLC (Heritage) was named as a Relief Defendant. On April 1, 2009, the district court entered an agreed order appointing Stephen J. Moriarty as Special Master over McKye and the McKye Entities.

The district court entered a Default Judgment on August 24, 2009, against the McKye Entities. On December 18, 2009, a hearing was held on ODS' *Motion for Summary Judgment against Defendant Brian McKye* and the district court found McKye had violated the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003), by selling unregistered securities, using fraudulent practices in the offer and sale of securities, and employing unregistered agents. On January 7, 2010, the district court enjoined McKye from offering and/or selling securities in and/or from the state of Oklahoma and ordered McKye to pay restitution, in an amount to be determined, to all investors who purchased investment notes from any of the Defendants and to all investors on whose behalf McKye otherwise made investments.

On August 5, 2010, a hearing was held on ODS's *Motion to Establish Restitution Amount*. McKye, having filed no response to the motion, was present at the hearing. The district court held McKye, the McKye Entities, Farnham, and Heritage jointly and severally liable for payment of restitution to investors. An *Order Establishing Restitution Amount* was entered on September 9, 2010, memorializing the ruling.