

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. ) Civil Action 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 A. )  
LEE, an individual, )  
)  
Relief Defendants. )  
\_\_\_\_\_ )

**PLAINTIFFS' OBJECTION AND RESPONSE TO YANG'S PROPOSAL**

Plaintiffs U.S. Commodity Futures Trading Commission ("Commission") and Oklahoma Department of Securities *ex rel.* Irving L. Faught ("ODS") (together, "Plaintiffs") respectfully submit this objection and response to Yang's Proposal (Doc. No. 97), filed on August 10, 2010.

In Yang's Proposal, Defendant Simon Yang ("Yang") sets forth a ten-part

proposal to the Court that more or less boils down to a motion to stay the proceedings for six (6) months to allow Defendant Kenneth Lee (“Lee”) to trade commodities and other financial products in a “Test Trading Account” to be funded and controlled by Yang. In his proposal, Yang asserts that if Lee makes monthly returns averaging 2.00% or higher during this six month trial period, Lee must be a “gifted trader” and must not have operated a Ponzi scheme. Yang proposes that in the event Lee makes such a return the Court dismiss this lawsuit, and Plaintiffs and Defendants be prohibited from asking each other for compensation for losses and damages. Yang further proposes that this lawsuit resume if Lee makes less than a 1% average monthly return during the six month trial period because it will have been demonstrated that Lee is not a gifted trader. Yang’s underlying basis for this proposal appears to be his belief that, “It is the responsibility of Prestige Ventures and Ken Lee to return all investors’ capitals to its clients in a reasonable shortest period with its resources and skills.”

Yang’s proposal should be denied because it: (1) is based on flawed logic, (2) fails to account for certain responsibilities of the Commission and ODS, and (3) undermines the law and judicial system. The logic of Yang’s proposal is flawed because the success of a trader during a six month trial period, or any trial period, simply does not determine or indicate whether a trader operated a Ponzi scheme or otherwise violated the applicable laws, during a prior period of time. Also illogical is Yang’s implied assertion that Lee’s trading of \$5,000 for six months would somehow lead to the repayment of the millions of dollars lost by the investors during a time period exceeding six (6) years.

In addition, Yang's proposal fails to account for the responsibilities of the Commission and ODS to protect the public through the enforcement of the Commodity Exchange Act ("CEA"), 7 U.S.C. §§ 6b(a)(2)(i)-(iii) and 6o(1) (2006), and the Oklahoma Uniform Securities Act of 2004 ("OUSA"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2009), respectively. As indicated in the First Amended Complaint for Injunctive and Other Equitable Relief and for Civil Penalties under the Commodity Exchange Act and the Oklahoma Uniform Securities Act (Doc. No. 39), filed on March 4, 2010, Plaintiffs are seeking permanent injunctions, *inter alia*, against Defendants. Evidenced, in part, by Yang's and Lee's separate requests to this Court to allow Lee to trade, Defendants will likely engage in future violations of the CEA and OUSA and cause additional loss to the public if permanent injunctions are not entered against Defendants. Yang's proposal fails to account for this reality.

Finally, Yang's proposal undermines the law and judicial system because it proposes that Plaintiffs gamble on the outcome of Lee's trading efforts during the six month trial period. If Lee achieves average monthly returns of 2% or higher, Defendants win and the case gets dismissed. If Lee achieves average monthly returns of 1% or lower, Plaintiffs win the right to resume litigating their claims against Defendants. The CEA and OUSA were clearly not designed to be enforced in this manner. Plaintiffs must have the ability to enforce the CEA and OUSA through the judicial system without having to afford a defendant a trial period like that proposed by Yang.

In conclusion, Defendants violated the CEA and OUSA, and they cannot now

undo those violations by being lucky enough to generate an average monthly return of 2% by trading commodities and other financial instruments during a six month trial period. For that reason and the reasons stated above, Plaintiffs respectfully request that Yang's Proposal be denied.

Dated: August 30, 2010.

Respectfully Submitted,

/s/ James H. Holl, III  
Gretchen L. Lowe  
James H. Holl, III  
U.S. Commodity Futures Trading Commission  
1155 21st Street NW  
Washington, DC 20581  
Email: [jholl@cftc.gov](mailto:jholl@cftc.gov)  
Telephone: 202.418.5000; Fax: 202.418.5538

ATTORNEYS FOR THE PLAINTIFF  
U.S. COMMODITY FUTURES TRADING  
COMMISSION

/s/ Terra Shamas Bonnell  
Terra Shamas Bonnell, OBA # 20838  
Patricia A. Labarthe, OBA # 10391  
Oklahoma Department of Securities  
120 North Robinson Avenue, Suite 860  
Oklahoma City, Oklahoma 73102  
Email: [tbonnell@securities.ok.gov](mailto:tbonnell@securities.ok.gov);  
[plabarthe@securities.ok.gov](mailto:plabarthe@securities.ok.gov)  
Telephone: 405.280.7700; Fax: 405.280.7742

ATTORNEYS FOR THE PLAINTIFF  
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2010, I caused the above response to be served by U.S. mail on the following, who are not registered participants of the ECF System:

Simon Yang  
1912 NW 176<sup>th</sup> Terrace  
Edmond, OK 73012

Kenneth Lee  
1660 Jorrington Street  
Mt. Pleasant, SC 29466

Sheila Lee  
1660 Jorrington Street  
Mt. Pleasant, SC 29466

David Lee  
2676 Palmetto Hall Blvd  
Mt. Pleasant, SC 29466

Darren Lee  
2676 Palmetto Hall Blvd  
Mt. Pleasant, SC 29466

I hereby certify that on August 30, 2010, I electronically transmitted the above response to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

James H. Holl, III

Stephen J. Moriarty

Warren F. Bickford, IV

/s/ Terra Shamas Bonnell