

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)
LEE, an individual,)

Relief Defendants.)

JOINT STATUS REPORT AND DISCOVERY PLAN

Date of Conference: April 6, 2010

Appearing for Plaintiffs:

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Appearing for Defendants and Relief Defendants:

Kenneth Lee, Simon Yang, Sheila Lee, David Lee, and Darren Lee, *pro se*

Appearing for Receiver:

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Receiver

Jury Trial Demanded - Non-Jury Trial

1. **BRIEF PRELIMINARY STATEMENT.** State briefly and in ordinary language the facts and positions of the parties to inform the judge of the general nature of the case.

Since at least July 2003, corporate defendants Prestige Ventures Corp. (“Prestige”) and Federated Management Group (“Federated”), acting as a common enterprise, and individual defendants Kenneth Lee and Simon Yang, solicited and accepted monies from members of the general public to participate in commodities pools for trading commodity futures contracts, foreign currency and securities.

In the Complaint filed on November 20, 2009, and the First Amended Complaint filed on March 4, 2010, Plaintiffs allege that Defendants' acts and practices in connection with the commodities pool, violated the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1 *et seq.* (2006), Commission Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2009), and the Oklahoma Uniform Securities Act of 2004 ("OUSA"), Okla. Stat. 71, §§ 1-101 through 1-701 (Supp. 2009). Plaintiffs also allege in the First Amended Complaint that Relief Defendants Sheila Lee, Darren Lee, and David Lee received benefits from Defendants' acts and practices that constitute violations of the Act, Regulations, or OUSA.

Defendant Simon Yang has filed an answer denying, at least in part, Plaintiffs' allegations in the Complaint.

No other Defendant or Relief Defendant has filed an answer to either the Complaint or First Amended Complaint.¹

2. **JURISDICTION**. The basis on which the jurisdiction of the Court is invoked and any presently known objections.

The jurisdiction of this Court is invoked pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief and enforce compliance of the Act against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, Regulation or order thereunder.

At this time, there are no known objections to the Court's jurisdiction.

3. **STIPULATED FACTS**. List stipulations as to all facts that are not disputed or reasonably disputable, including jurisdictional facts.
 - A. The Court has jurisdiction over the subject matter and parties.
 - B. The chosen venue is proper.
 - C. Defendants and Relief Defendants have never been registered, in any

¹ On March 23, 2010, Plaintiffs circulated this Joint Status Report and Discovery Plan (the "Report"), in the exact form presented here with the exception of the footnotes, to all parties. All parties consented to the submission of the Report. However, after the circulation of the Report, events occurred that outdated some of the information in the Report. One of those events is that Relief Defendant Darren Lee filed an answer to the First Amended Complaint denying, at least in part, Plaintiffs' allegations in the First Amended Complaint, on March 29, 2010. Plaintiffs include this footnote without the consent of the other parties.

capacity, with the Commission or under the OUSA, or any predecessor act.

- D. Prestige engaged in the business of soliciting and accepting funds from participants to pool together for the purpose of trading commodity futures, foreign currency and securities on behalf of those participants.

4. **CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.**

A. Plaintiff: Plaintiffs' claims are as follows:

- i. Violations of Section 4b(a)(2)(i)-(iii) and 4b(a)(1)(A)-(C) of the Act - Fraudulent Solicitation, Misappropriation and False Statements;
- ii. Violations of Section 4o(1) of the Act - Fraud as a CPO and Associated Person;
- iii. Violations of Sections 6(c) and 9(a)(3) of the Act - Willful Misstatements or Omissions of Material Facts to the Commission;
- iv. Violations of Sections 4m(1) and 4(k)(2) of the Act - Failure to Register as CPOs and APs;
- v. Violations of Regulation 4.2 - CPOs Accepting Pool Funds Other than in the Name of the Pool, Commingling of Pool Funds with Own Funds, and Failure to Treat the Pool as a Separate Entity;
- vi. Violations of Regulation 4.21 - Failure to Provide Pool Disclosure Documents;
- vii. Disgorgement of Funds from the Relief Defendants;
- viii. Violations of Section 1-301 of the OUSA - Offer and/or Sale of Unregistered Securities;
- ix. Violations of Section 1-402 of the OUSA - Failure to Register as an Agent and Employing Unregistered Agents;
- x. Violations of Section 1-501 of the OUSA - Untrue Statements of Material Fact and Omissions of Material Fact in Connection with Offer, Sale or Purchase of Securities;
- xi. Violations of Section 1-501 of the OUSA - Employing a Device,

Scheme or Artifice to Defraud; and

- xii. Violations of Section 1-501 of the OUSA - Engaging in any Act, Practice, or Course of Business Which Operates or Would Operate as a Fraud or Deceit upon any Person.

B. Defendants and Relief Defendants: None

5. **APPLICABILITY OF FED. R. CIV. P. 5.1 AND COMPLIANCE.**

Do any of the claims or defenses draw into question the constitutionality of a federal or state statute where notice is required under 28 U.S.C. § 2403 or Fed. R. Civ. P. 5.1?

Yes No

6. **MOTIONS PENDING AND/OR ANTICIPATED** (include date of filing, relief requested, and date responsive brief to be filed).

A. Plaintiffs' Motion, and Brief in Support, for an Order Finding Kenneth Wayne Lee, Simon Yang, David Lee, and Darren Lee in Contempt of Court ("Motion for Contempt"), filed on March 3, 2010, requests the following relief, in the form of an order:

- i. Finding Lee in contempt of the SRO and the Lee Preliminary Injunction;
- ii. Compelling Lee to:
 - (a) provide a full and accurate accounting of the receipt and expenditure of all funds he received from his sons on or after November 20, 2009, and turn over any funds remaining in his possession, custody or control to the Receiver;
 - (b) deliver to the Receiver a full accounting of all of his assets and the assets of Prestige Ventures Corporation and Federated Group Management Inc. owned during the time period January 1, 2003, until November 20, 2009, and the underlying information to support the accounting;
 - (c) deliver to the Receiver all books, records, and documents of Defendants Lee, Prestige Ventures Corporation and Federated Group Management Inc.;

- (d) provide the Receiver with a list and description of all documents, relating to the business practices or business or personal finances of Defendants, that he destroyed on or after November 20, 2009;
 - (e) obtain, if possible, from the Prestige Ventures' domain host, and deliver to the Receiver, all emails, relating to the business practices or business or personal finances of Defendants, he deleted on or after November 20, 2009; and
 - (f) provide the Receiver and Plaintiffs with the name, address, and telephone number of all persons whom he, or someone on his behalf, has solicited funds from since November 20, 2009;
- iii. Finding Yang in contempt of the SRO and the Yang Preliminary Injunction;
 - iv. Ordering Yang to provide the Receiver with a full accounting of all of his assets owned during the time period January 1, 2003, until November 20, 2009;
 - v. Finding Darren Lee in contempt of the SRO;
 - vi. Ordering Darren Lee to deliver the following to the possession, custody or control of the Receiver within five (5) days of the date of the order:
 - (a) all monies in his bank account;
 - (b) deed to his home located at 2676 Palmetto Hall Boulevard; and
 - (c) the 17-foot boat owned by David and Darren Lee;
 - vii. Finding David Lee in contempt of the SRO; and
 - viii. Ordering David Lee to deliver the following to the possession, custody or control of the Receiver within five (5) days of the date of the order:
 - (a) all monies in his bank account;
 - (b) funds received for sale of his home at 3230 Heathland Way; and
 - (c) the 17-foot boat owned by David and Darren Lee.

Defendants' and Relief Defendants' responses to the Motion for Contempt are due on March 24, 2010.

- B. Defendant Kenneth Lee's Motion to Stay Receivership of any Property Owned by Kenneth Wayne Lee, Sheila Marjorie Lee, Darren Alexander Lee and David Armstrong Lee and Allow Defendant Lee to Trade for the

Account of Investors for Purposes of Repayment (“Motion to Stay”), filed on March 9, 2010, requests the following relief:

- i. An order allowing Kenneth Lee to trade through PFGBest Brokerage firm and repay customers through the Court or Receiver;
- ii. An order staying the receivership, allowing the receivership funds to be used by Kenneth Lee to invest for the customers’ benefit, and allowing Kenneth Lee to trade the PFGBest account, under the Court’s and Receiver’s supervision, for the sole purpose of repayment to investors; and
- iii. An order staying the contempt of court charges.

Plaintiffs’ response to the Motion to Stay is due on March 30, 2010.²

C. Defendant Kenneth Lee and Relief Defendants David Lee and Darren Lee anticipate filing motions in the future. The specifics of the motions are unknown at this time.

7. **COMPLIANCE WITH RULE 26(a)(1)**. Have the initial disclosures required by Fed. R. Civ. P. 26(a)(1) been made? Yes³ No
If “no,” by what date will they be made? _____

8. **PLAN FOR DISCOVERY**.

- A. The discovery planning conference (Fed. R. Civ. P. 26(f)) was held on March 16, 2010.
- B. The parties anticipate that discovery should be completed by June 30, 2010.
- C. In the event ADR is ordered or agreed to, what is the minimum amount of time necessary to complete necessary discovery prior to the ADR session?
3 months
- D. Have the parties discussed issues relating to disclosure or discovery of

² Plaintiffs filed a response to the Motion to Stay on March 18, 2010, and Defendant Kenneth Lee filed a reply on March 29, 2010. Plaintiffs include this footnote without the consent of the other parties.

³ On March 26, 2010, Plaintiffs served Fed. R. Civ. P. 26(a)(1) disclosures on all parties. As of this date, none of the Defendants or Relief Defendants has served Fed. R. Civ. P. 26(a)(1) disclosures and none has indicated when they plan to serve Fed. R. Civ. P. 26(a)(1) disclosures. Plaintiffs include this footnote without the consent of the other parties.

electronically stored information, including the form or forms in which it should be produced, as required by Fed. R. Civ. P. 26(f)(3)?

Yes No

E. Have the parties discussed issues relating to claims of privilege or of protection as trial-preparation material, as required by Fed. R. Civ. P. 26(f)(4)?

Yes No

F. Identify any other discovery issues which should be addressed at the scheduling conference, including any subjects of discovery, limitations on discovery, protective orders needed, or other elements (Fed. R. Civ. P. 26(f)) which should be included in a particularized discovery plan.

The parties are not aware of any discovery issues that should be addressed at the scheduling conference.

9. **ESTIMATED TRIAL TIME:** 1 week

10. **BIFURCATION REQUESTED:** Yes No

11. **POSSIBILITY OF SETTLEMENT:** Good Fair Poor

12. **SETTLEMENT AND ADR PROCEDURES:**

A. Compliance with LCvR 16.3(c) - ADR discussion: Yes No

B. The parties request that this case be referred to the following ADR process:

- Mediation
- Judicial Settlement Conference
- Other

None - the parties do not request ADR at this time.

13. **Parties consent to trial by Magistrate Judge?** Yes No

14. **Type of Scheduling Order Requested.** Standard - Specialized (If a specialized scheduling order is requested, counsel should include a statement of reasons and proposal.)

Submitted this 30th day of March, 2010.

/s/ Katherine S. Driscoll
Counsel for Plaintiff
U.S. Commodity Futures Trading Commission

/s/ Terra Shamas Bonnell
Counsel for Plaintiff
Oklahoma Department of Securities

/s/ Kenneth Lee
Kenneth Lee, Defendant, *pro se*

/s/ Simon Yang
Simon Yang, Defendant, *pro se*

/s/ Darren Lee
Darren Lee, Relief Defendant, *pro se*

/s/ David Lee
David Lee, Relief Defendant, *pro se*

/s/ Sheila Lee
Sheila Lee, Relief Defendant, *pro se*

/s/ Stephen Moriarty
Stephen Moriarty, Receiver

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2010, I caused the Joint Status Report and Discovery Plan to be served by U.S. mail on the following, who are not registered participants of the ECF System:

Simon Yang
1912 NW 176th 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 March 30, 2010, I electronically transmitted the Joint Status Report and Discovery Plan 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:

Katherine S. Driscoll

Stephen J. Moriarty

Warren F. Bickford, IV

/s/ Terra Shamas Bonnell
Terra Shamas Bonnell