

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.)
)
 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.)
 _____)

Case No. 09-cv-1284 (DLR)

**ORDER OF CIVIL CONTEMPT AGAINST
DEFENDANT KENNETH WAYNE LEE
AND RELIEF DEFENDANT DAVID A. LEE**

This matter comes before the Court on Plaintiffs' U.S. Commodity Futures Trading Commission ("Commission") and Oklahoma Department of Securities ("ODS") (together, "Plaintiffs") Motion and Brief in Support for an Order Finding Kenneth Wayne Lee, Simon Yang, David Lee, and Darren Lee in Contempt of Court (Docket No. 35)

(“Motion for Contempt”). The matter was briefed and, with proper notice to all parties, set for hearing. The hearing was held on April 21, 2010 (“Contempt Hearing”). At the Contempt Hearing, the Commission appeared by its counsel, Katherine S. Driscoll; ODS appeared by its counsel, Terra S. Bonnell and Patricia A. Labarthe; and Defendant Simon Yang appeared *pro se*. The Receiver, Stephen J. Moriarty, appeared in person and by his counsel, Warren F. Bickford. Defendant Kenneth Wayne Lee and Relief Defendants David Lee, Darren Lee, and Sheila Lee failed to appear.

Based on the Motion for Contempt, the subsequent briefing, the applicable law, and the evidence and argument presented at the Contempt Hearing, the Court finds as follows:

1. On November 20, 2009, the Court entered an Order Granting Plaintiff Commission’s *Ex Parte* Motion for Statutory Restraining Order, Appointment of Temporary Receiver, Expedited Discovery, Accounting, Order to Show Cause re Preliminary Injunction, and Other Equitable Relief (Docket No. 9) (“SRO”).
2. The SRO prohibited the dissipation of Defendants’ assets and the destruction of documents that relate to the business of Defendants (SRO ¶¶ 14, 23). In addition, the SRO required Defendants to, in part: provide the Receiver and the Commission with a full accounting of all of their assets owned during the relevant period; allow the Commission and the Receiver to inspect all of Defendants’ documents; and cooperate fully with and assist the Receiver including, but not limited to, by providing any information that the Receiver deems necessary to exercise his authority (SRO ¶¶ 16, 24,

3. On December 2, 2009, the Court entered a Consent Order of Preliminary Injunction against Defendant Kenneth Wayne Lee (Docket No. 22) (“Lee Preliminary Injunction”). Kenneth Lee consented to the entry of the Lee Preliminary Injunction as well as to its specific terms and provisions. The Lee Preliminary Injunction continued the SRO in full force and effect and enjoined Lee from further violations of the Commodity Exchange Act (“Act”), 7 U.S.C. § 1 *et seq.* (2006), and the Oklahoma Uniform Securities Act of 2004 (“OUSA”), Okla. Stat. tit. 71, §§1-101 through 1-701 (Supp. 2004) (Section III of the Lee Preliminary Injunction).

4. Between the filing of the Motion for Contempt and the Contempt Hearing, the Court entered an Order Granting Plaintiff Commission’s Motion to Amend the SRO (Docket No. 36) (“Amended SRO”). The Amended SRO continued the SRO and the Lee Preliminary Injunction in full force and effect. The Amended SRO also made Relief Defendants Sheila, David, and Darren Lee subject to its provisions.

5. The Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1. The Act authorized the Court to exercise its powers to effectuate the purposes of the Act, including but not limited to the issuance of writs and orders. *Id.* at § 13a-1(a).

6. The SRO, the Lee Preliminary Injunction, and the Amended SRO are valid orders entered in this action.

7. Kenneth Lee had notice of the SRO, the Lee Preliminary Injunction and the Amended SRO.

8. Relief Defendant David Lee had notice of the SRO and the Amended SRO.

9. Kenneth Lee has violated and currently is violating the SRO, the Lee Preliminary Injunction, and the Amended SRO by: his failure to provide an accounting, his failure to provide access to his books and records, his destruction of Defendants' books and records after he was served with the SRO.

10. David Lee has violated and is currently violating the SRO and the Amended SRO by his failure to account for the proceeds of the sale of the real property located at 3230 Heathland Way, Mt. Pleasant, South Carolina 29466.

11. For all the reasons above, Kenneth Lee and David Lee are in civil contempt of court.

12. Having determined that Kenneth Lee is in civil contempt of court, **IT IS HEREBY ORDERED** that Kenneth Lee will immediately:

- a. Provide the Receiver with a complete list of all pool participants in the Prestige Enterprise, the amount of money each pool participant invested in the Prestige Enterprise, the amount of money each pool participant received in return from the Prestige Enterprise, and the disposition of any assets of the Prestige Enterprise that were not returned to pool participants; and
- b. Deliver to the Receiver the following books and records of the Prestige Enterprise for the period July 2003 through the present: i) all pool participant account statements; ii) all emails between Kenneth Lee and the

13. Kenneth Lee may purge himself of contempt by accomplishing all of the actions previously detailed in this Order.

14. **IT IS FURTHER ORDERED** that should Kenneth Lee fail to comply with this Order within seven (7) days of the date of service of this Order on Kenneth Lee, he will be incarcerated. The Court concludes this sanction is necessary as it is the level of coercion most likely to effect Kenneth Lee's compliance with the Orders of the Court. Kenneth Lee may purge himself of his contempt and be released from incarceration by accomplishing all of the actions previously detailed in this Order.

15. Having determined that David Lee is in civil contempt of court, **IT IS HEREBY ORDERED** that David Lee will immediately deliver to the possession, custody or control of the Receiver a full accounting of proceeds he received from the sale of real property at 3230 Heathland Way, Mt. Pleasant, South Carolina 29466.

16. David Lee may purge himself of contempt by accomplishing all of the actions previously detailed in this Order.

17. **IT IS FURTHER ORDERED** that should David Lee fail to comply with this Order within seven (7) days of the date of service of this Order on David Lee, he will be incarcerated. The Court concludes this sanction is necessary as it is the level of coercion most likely to effect David Lee's compliance with the Orders of the Court. David Lee may purge himself of his contempt and be released from incarceration by accomplishing all of the actions previously detailed in this Order.

18. **IT IS FURTHER ORDERED** that this Order shall be served by any Commission representative, the Receiver or any of his representatives, any United States Marshal or deputy United States Marshal, or in accordance with Rule 4 of the Federal Rules of Civil Procedure.

19. **IT IS FURTHER ORDERED** that the Court shall continue to retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED this 10th day of May, 2010.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE