FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT 1 1 2010
MICHAEL RICHIE
CLERK

Rule 1.30(f), Form No. 5

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Oklahoma Dept of Securities _____
Irving Faught Admin _____,

Plaintiff/Appellee ___,

Brian McKye - Individual _____
Pro se _____,

Defendant/Appellant ___.

#108795

No. _CJ-2009-2775_____

PETITION IN ERROR

X__PETITION IN ERROR
___AMENDED OR SUPPLEMENTAL PETITION
___CROSS PETITION
___COUNTER-PETITION

DATE FIRST PETITION IN ERROR FILED: _____

1. TRIAL COURT HISTORY

URT/TRIBUNAL: _____Oklahoma Supreme Court Civil Appeals_____
UNTY: _____Oklahoma_____
SE NO.: ____CJ-2009-2775_____
DGE: _____Noma Gurich_____
TURE OF CASE: _____Accused of Selling Securities_____
(e.g., Divorce, Personal Injury)

ME OF PARTY OR PARTIES FILING THIS PETITION IN ERROR:
_____Brian McKye - Individual_____

E APPEAL IS BROUGHT FROM: (Check one)
(___ Judgment, Decree or Final order of District Court.
_____ Appeal from order granting summary judgment or motion to dismiss where motion filed after October 1, 1993 (Accelerated procedure under Rule 1.36).

_____ Appeal from Revocation of Driver's License (Rule 1.24(b)).
_____ Final Order of Other Tribunal.

Tax Commission, Court of Tax Review, Banking Board or Banking Commissioner, etc. _____)

Interlocutory Order Appealable by Right.

Other

II. TIMELINESS OF APPEAL

Date judgment, decree or order appealed was filed: 09/09/2010

If decision was taken under advisement, date judgment, decree or order was ma
to parties: NA

Does the judgment or order on appeal dispose of *all* claims by and agains
parties? X Yes ____ No.

If not, did district court direct entry of judgment in accordance with 12
Supp. 1995 § 994? ____ Yes ____ No.
When was this done? _____

If the judgment or order is not a final disposition, is it appealable because it is
Interlocutory Order Appealable by Right? ___ Yes ___ No.
If none of the above applies, what is the *specific* statutory basis for determining
judgment or order is appealable? Rule 1.36 Supreme Court Rules Oklahom
Were any post-trial motions filed?

Type	Date Filed	Date Disposed
none		

This Petition is filed by: X Delivery to Clerk, or
X Mailing to Clerk by U.S. Certified Mail, R
Receipt Requested, on 10/08/2010
(Date)

III. RELATED OR PRIOR APPEALS

all prior appeals involving same parties or same trial
ding: None

related appeals involving same issues: None
by Style, Appeal Number, Status, and Citation, if any. If none, so state.)

IV. SETTLEMENT CONFERENCE

ellant willing to participate in an attempted settlement of the appea
ssional conference under Rule 1.250? X Yes ____ No

V. RECORD ON APPEAL

A Transcript will be ordered.

No Transcript will be ordered because no record was made and/o
transcript will be necessary for this appeal.

X___A Narrative Statement will be filed

X___ Record is concurrently filed as required by Rule 1.34 (Driver's Appeals, etc.) or Rule 1.36 (Summary judgments and motions t granted).

VI. JUDGMENT, DECREE OR ORDER APPEALED -- EXHIBIT #A

ttach as Exhibit "A" to the Petition in Error a certified copy of the judgment, der from which the appeal is taken. If a post-trial motion extending appeal ti le 1.22 was filed, a certified copy of the order disposing of the motion ached also.)

VII. SUMMARY OF CASE -- EXHIBIT #B's.

ttach as Exhibit "B" a brief summary of the case *not to exceed one 8 ½" x 1 ceed page.*

VIII. ISSUES TO BE RAISED ON APPEAL -- EXHIBIT #C's.

ttach as Exhibit "C" the issues proposed to be raised. Include each point of la error. Avoid general statements such as "Judgment not supported by law."

IX. NAME OF COUNSEL OR PARTY, IF PRO SE

ATTORNEY FOR APPELLANT ATTORNEY FOR APPELLEE

me: None Name: PatriciaLabarthe
BANo: OBANo.: 10391
m: Firm: Ok Dept of Securities
ldress: Address: 120 N.Robinson Okc Ok 73102
lephone: Telephone: (405) 280-7700

TE: October 8th 2010 Verified by : Brian McKee

(Signature of Attorney or Pro Se Party)

Firm: Pro se
Address: P.O.Box 957 Jay, OK 74346
Telephone: (405) 708-1656

X. CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

I certify that a true and correct copy of the Petition in Error was mailed this th day of October, 2010, to Patricia Labarthe Oklahoma Dept of curities, 120 N. Robinson Ste. 800, Okc OK 73102; Stephen Moriarty –special ster Fellers Snider 100 N. Broadway Ste. 1700 Okc OK 102

(Name and Address of Each Party or Counsel)

depositing it in the U.S.Mails, postage prepaid.I further certify that a copy of e Petition in Error was mailed to, or filed in, the Office of Oklahoma preme Court Court of Civil Appeals on the 8th day of October, 2010.

July 06 2006 Plaintiff Sub poenas all records of Defendants Brian McKye, Sure Lock Loans, Global West Funding, and TW Goldmade. Defendant fully cooperates with all records of customers, financial statements, bank records, copies of checks and all transactional documents related to each and every customer of Defendant as of the date requested.

June 12 2007 Plaintiff Sub poenas again all records of Defendant Brian McKye, Sure Lock Loans, Global West Funding, and TW Goldmade. Defendant fully cooperates and provides all records as requested of all customer files, financial statements, bank records, copies of checks and all transactional documents.

October 16 2008 Plaintiff Sub poenas again all record of Defendant Brian McKye, Sure Lock Loans, Global West Funding and TW Goldmade. Defendant fully cooperates and provides all records as requested of all customer files, financial statements, bank records, copies of checks and all transactional documents.

March 24 2009 Plaintiff files for and receives an "emergency" order from Judge Noma Gurich to seize all assets of Defendant and each of his entities without hearing. Media outlets are alerted including the Daily Oklahoman, Journal Record, Fox News, and others by Irving Faught administrator of Plaintiff ODS that "authorities have seized a 'local Ponzi scheme'". Defendants' stores in OKC (2), Yukon, MWC, Tulsa, Miami, and Grove Oklahoma and remain open.

March 26 2009 Defendant collects nearly $21,000 from Defendants' seven stores throughout Oklahoma in order to pay payroll and store expenses. A 'special master' is appointed by Judge Gurich to seize and "operate" Defendants' assets.

April 1st 2009 Special Master Stephen Moriarty who being appointed by Judge Gurich, visits Defendants corporate office

April 6th 2009 Defendant motions for court approval to retain counsel with either companies' or personal funds. Motion denied.

May 1st 2009 Stephen Moriarty terminates Defendant, banned from all stores, McKye who lived at his office is now homeless.

May 7th 2009 Being denied payment from seized funds, Defense counsels Cunningham/Rose motion for withdrawal as counsel.

May 19th 2009 Stephen Moriarty motions to Judge Gurich to sell Defendants' seven stores along with all assets in those stores.

May 21st 2009 Judge Gurich grants motion to sell Defendant Brian McKye's assets as requested by Moriarty.

June 5th 2009 Plaintiff and Special Master motion for contempt against Defendant's $21,000 paying of company bills.

July 7th 2009 Default judgement entered against all Defendant's companies i.e Sure Lock, Global West, TW Goldmade Defendant requests to represent his own companies, request denied by Judge Gurich.

Aug 5th 2009 Stephen Moriarty terminates 28 employees from Defendant's seven stores. All stores sold to Your Credit Inc.

Aug 14th 2009 Plaintiff drops all Contempt Charges against Defendant Brian McKye. Judge Gurich dismisses charges.

Nov. 9 2009 Plaintiff motions for summary judgement. Pre-trial conference set for January 6th 2010.

Dec.15th 2009 Defendant responds to motion for summary judgement.

Dec 18th 2009 Plaintiffs' Motion for summary judgement granted by Judge Gurich.

Aug 5th 2010 Plaintiffs' Motion for Order establishing restitution against Defendant filed.

Sept 9 2010 Final Motion granted by order of Judge Gurich for restitution against Defendant Brian McKye, totaling $4,500,000

se actions and inactions of the Plaintiff constitute estoppel, waiver, latches, undue delay, and unclean nds. Plaintiff first audited Defendant July 2006. Defendant fully cooperated with the audit and bsequent audits over the next three years. No reason exited for "emergency" action, or a negative media mpaign orchestrated by Irving Faught, administrator of the Oklahoma Dept of Securities.

ffer such actions and inaction's of the Plaintiff during years 2006, 2007, 2008 and 2009 do not give rise the Plaintiffs' request of Oklahoma District Court Judge Noma Gurich of a temporary relief of the aintiff showing such "due cause" for such an "emergency" action after three years of auditing Defendant.

ne Special Master appointed by the Court, has failed to timely pay creditors, failed to make timely reports his actions to this Court (only 2 in 19 months, failed to "operate and maintain" the companies, choosing stead to "fire sale" them to associates, and has yet to file timely federal or state tax requirements for all of e 28 employees released by him on August 5th 2009.

ne loans made by third parties to Defendant do not constitute a "security" as defined by the Oklahoma ecurities Act of 2004.

he Plaintiff is without jurisdiction to bring this action. The Defendant (Brian McKye dba Global West nding) and has been licensed to buy and sell loans within the state of Oklahoma since 1999 by the klahoma Department of Consumer Credit, regulating mortgage and consumer loans.

n our ever changing and challenging economy as we live in today, Defendant provided evidentiary proof at Defendants' stores were operating at a profit in the 3 months preceding the seizure by the Plaintiff. No ddiitional monies were needed to meet company expenses. Payments to company "investors" for the onths of Dec 08, Jan 09 or Feb 09 were fully funded from store profits. If Defendants actions were in ct a "ponzi scheme" as told by Plaintiff, then profits from Defendants' stores would not exist. All seven ores of Defendant generated more funds in the months of Dec 08, Jan 09, and Feb 09 prior to Plaintiffs' izure than were required for payroll, bills, and monthly obligations. This the stores were profitable.

laintiff alleges that Defendant has not contested that it was selling securities. That is not true. Defendant response of April 24 2009 that no securities are being sold by Defendant. See exhibit "D"

efendant has continuously stated that his loans are exempt from ODS regulation on the basis that these otes are of a quality which makes them exempt from Oklahoma Department of Securities Act of 2004 atutes:

*1202 section 14; states not more than 24 purchasers during any twelve consecutive months.
*no general solicitation is made in connection with the offer to sell or sale of securities.
*no commission or other remuneration is paid to broker-dealers.
*the issuer reasonably believes that the purchaser is purchasing for his/her own self.

his is the Oklahoma Department of Securities statues for securities which do not need regulatory filing. klahoma Department of Securities Act of 2004 1202 section 14. Defendant met all these requirements hen Plaintiff seized Defendants' assets March 24 2009.

There is a greater harm to the public good if a trial is not conducted. In testimony before Judge Gurich, Stephen Moriarty admitted that no inventory of any stores' assets were conducted prior to their sale. Mr. Moriarty is unqualified to assist this court in such a large endeavor. Mr. Moriarty has only had one other experience as receiver for an Oklahoma Court or any other court. Mr. Moriarty is unqualified to serve as special master as evidenced by other debt collection agencies actions against Stephen and Victoria Moriarty also his own home was foreclosed in 1999. How can a "special master" handle other people's debts if they can't handle there own?

fendant submits that this action by the ODS and Irving Faught is unconstitutional.

intiff alleges that Defendant has not contested the legality of loan sales. This is not true.

ce July '06 Defendant has contended that all loans sold by Defendant were exempt from ODS

gistration. Plaintiff cites the requirement of the Defendant to "prove" his own exemption accor

Oklahoma Securities Act of 2004 section 1-503. This section in the act has never been tried a

actment in 2004. Defendant contends that this portion of the act is unconstitutional by both th

klahoma Constitution and the U.S. Constitution. "No person shall be compelled to give eviden

ich will tend to incriminate him, except as in this Constitution specifically provided".

en in the Oklahoma Constitution it states "No person shall be held to answer for a capital , or

herwise infamous crime, unless on a presentment or indictment of a grand jury, . . without due

law". All of Defendants's assets were both seized and sold before this matter was adjudicated

is the Res gest ae of the Plaintiff's entire case. Defendant is accused of selling unregistered

ities; assets were seized and sold prior to trial. Oklahoma law provides a manner for securities

to be sold without registration. Yet the law provides no "registration" for an unregistered cha

nption.

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.
SEP - 9 2010
PATRICIA PRESLEY, COURT CLERK
by _____ DEPUTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES, *ex. rel.* Irving L. Faught, Administrator,	
Plaintiff,	
vs.	Case No. CJ-2009-2773
GLOBAL WEST FUNDING, LTD., CO., an Oklahoma limited liability company, et al.,	
Defendants.	

ORDER ESTABLISHING RESTITUTION AMOUNT

This matter came on for hearing on the 5th day of August, 2010, before the undersigned Judge of the District Court in and for Oklahoma County, State of Oklahoma, on the *Plaintiff's Motion to Establish Restitution* (Motion). Plaintiff, Oklahoma Department of Securities, appeared by and through its attorneys, Patricia A. Labarthe and Jennifer Shaw. Defendant Brian McKye appeared *pro se*. Defendant James Farnham appeared *pro se*.

The Court, having reviewed all pleadings and evidence, finds Defendants Global West Funding, Ltd., Co., Global West Financial LLC, Sure Lock Financial, LLC, Sure Lock Loans LLC, The Wave-Goldmade Ltd., Brian McKye, James Farnham and Heritage Estate Service LLC (collectively, "Defendants") are held jointly and severally liable for payment of restitution to investors in the amount of Four Million Five Hundred Thousand Dollars ($4,500,000). The Court further finds cause to grant the Motion and, therefore:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendants jointly and severally pay restitution to all investors who purchased Investment Notes from any of the

Defendants in this case and to all investors for whom Defendants otherwise made investments on their behalf in the amount of Four Million Five Hundred Thousand Dollars ($4,500,000).

IT IS HEREBY ORDERED that all restitution payments made by Defendants shall be deposited directly to Bank of Oklahoma bank account 7803 (only last four digits of account number provided), in the name of Sure Lock Loans LLC.

IT IS SO ORDERED.

NOMA GURICH

DISTRICT COURT JUDGE

I, PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the District Court Clerk's Office of Oklahoma County, Okla., this 9th day of Sept., 2010.

PATRICIA PRESLEY, Court Clerk

By _____ Deputy

Approved:

Patricia A. Labarthe, OBA #10391
Jennifer Shaw, OBA #20839
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
(405) 280-7700
Attorney for Plaintiff