

~~Answer to Plaintiffs' Rent Objection~~
IN THE DISTRICT COURT OF OKLAHOMA

COUNTY

STATE OF OKLAHOMA

| | | |
|-----------------------------------|---|----------------------|
| Oklahoma Department of Securities |) | |
| ex rel. Irving L. Faught |) | |
| Administrator, |) | |
| |) | Case No.CJ-2009-2773 |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| Brian McKye, an individual |) | |
| |) | |
| Defendant, |) | |

DEFENDANTS ANSWER TO PLAINTIFFS' OBJECTION TO PAY RENT

COMES NOW the Defendant, Brian McKye; pro se, and respectfully answers Plaintiffs' objections regarding the payment of rent on company stores for the following reasons:

1. On March 24, 2009, Plaintiff filed a Petition for Permanent Injunction and Other Equitable Relief (Petition) and this Court issued a TRO, Order Freezing Assets, and Order for Accounting, pursuant to Section 1-603 of the Oklahoma Uniform Securities Act of 2004 (Act), Okla Stat. tit, 71 1-102 through 1-107 (Supp. 2003) This Court issued a TRO on the same day without hearing. Agreed by Defendant.
2. On April 1, 2009 an Agreed Order was entered appointing a Special Master, Stephen J Moriarty. Agreed by Defendant.
3. The Special Master states that he found approximately \$92,000 in cash upon his appointment. Plaintiff goes on to state that Special Master has only \$30,000 in his bank accounts presently. Plaintiff further states that \$6,000,000 in "investor" funds have been deposited with Defendant. Defendant objects to the amounts claimed by Plaintiff and Special Master , however since Defendant cannot access bank records and will assume these figures to be somewhat true and correct.
4. Investor funds were placed into General funds of Defendant and were indeed transferred between "sister" stores and accounts.
5. On June 1st, 2009, the Motion was filed and the Motion was set for hearing on June 12, 2009, the same date as other hearings on Motions filed by this Plaintiff. Plaintiff was already scheduled to attend this Courts' hearing on a similar matter to this Motion.

ARGUMENT

In the Motion, Counsel for the Landlord requesting rent or return of premissis, claims a total of \$3,000, for unpaid rent. Special Master has apparently many other landlords and vendors which have likewise gone unpaid and are now foreclosing or evicting Defendant. see exhibit A
Plaintiff asserts that ANY potential disgorgement order would vastly exceed the assets frozen by the Court. This is patently false.

Mr. Moriarty's selections of paying some stores rent while not paying others are in violation to this Courts' Order. The STATUS QUO is to be maintained as funds are available. Having from \$30,000 to

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\$90,000 and not paying utilities, rent, supplies, payroll taxes, unemployment taxes, telephones, insurance, etc. , which Defense can prove is not being paid, if allowed to by this Court, is in direct violation to the Agreed Order to "operate and maintain the status quo". This is not about maintaining assets as much it is about one Special Master trying to play "favorites" while he seizes and sells a company prematurely to all the facts. The Defendants' father should not be singled out for non-payment. Defendant respectfully requests the Court to order the Special Master to pay all current rents due presently.

Respectfully



Brian McKye
P.O. Box 957
Jay, Ok 74346
405-708-1636

Certification
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11 June, 2009, a true and correct copy of the foregoing was mailed by certified mail, return receipt requested, with postage paid there on addressed to:

Stephen J. Moriarty
Fellers, Snider
100 N. Broadway, ste 1700
Oklahoma City Ok 73102

Patricia A Labarthe
Oklahoma Department of Securities
120 N. Robinson su 860
Oklahoma City, Ok 73102



Brian McKye - Defendant

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P.O. Box 957
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