

IN THE DISTRICT COURT OF OKLAHOMA COUNTY OCT 31 2018  
STATE OF OKLAHOMA

RICK WARREN  
COURT CLERK  
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Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Joe Lawrence Gregory, )  
 )  
Defendant. )

Case No. CJ-2018-4572

**RESPONSE TO MOTION TO VACATE DEFAULT JUDGMENT**

COMES NOW the Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator (the "Department"), and hereby responds to Defendant Joe Gregory's Motion to Vacate Default Judgment ("Motion").

**FACTUAL BACKGROUND**

1. This case involves violations of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011 and Supp. 2017), by Joe Lawrence Gregory ("Defendant" or "Gregory"). Specifically, the Department alleges that Defendant offered and sold unregistered securities in the form of working interests in oil and gas leases, in violation of Section 1-301 of the Act; acted as an unregistered agent in violation of Section 1-402 of the Act; and committed fraud in connection with the offer, sale and/or purchase of the working interests in violation of Section 1-501 of the Act.

2. Defendant has defrauded more than 90 investors in 5 states out of more than Five Million Dollars (\$5,000,000) by misrepresenting his previous oil and gas experience; misrepresenting the costs to drill and complete his oil and gas prospects; misrepresenting how investor proceeds

would be used; providing different investors with different sets of costs associated with the same well depending on the investors' level of oil and gas experience (he would provide the more knowledgeable and experienced investor with a more accurate and reasonable investment amount); inflating the net revenue interest amounts investors would receive from a well; omitting to state that there were title defects and other issues relating to certain leases; omitting to state that ten percent (10%) of investor capital would be immediately paid to Defendant as an undisclosed sales commission; omitting to state that he had been previously ordered by the Department to stop violating the Act; omitting to state that he had previously filed bankruptcy; and omitting to state that he had pled guilty to and been convicted of bank fraud.

3. Defendant perpetuated the scheme by intentionally sending out revenue checks to investors without deducting necessary well operational costs, thereby creating the illusion of revenue being generated, by causing revenue to be distributed to investors without accurate division orders in place, and by failing to drill a well for which investors had paid and using that money for other purposes.

4. The scheme culminated with Gregory taking money for a well project from one investor and never applying it to any well project. Instead, he literally placed the investor's cash in his own pocket. Finally, Gregory engaged in an expletive laced conversation that makes clear his attitude toward investors who were upset over no returns or the fact that a well paid for by investors had never been drilled. In a recorded conversation Gregory said "send them a JIB [meaning send them a bill] and when they call and complain blah, blah, blah...most of our investors have no \*\*\*\*ing idea about the oil and gas business...Give them a \*\*\*\*ing invoice for a 100 grand and see if they give up the interest." The scheme ultimately collapsed into bankruptcy.

5. Gregory has a history of violating the Act and other court orders. In 1992, Gregory and Blue Quail Limited, an Oklahoma corporation (“Blue Quail”), were found to have violated the Act in connection with the offer and sale to investors of working interests in an oil and gas venture. Gregory and Blue Quail were ordered by the Administrator of the Department to cease and desist from violating the Act (the “Department Order”).

6. In 2005, Gregory filed a petition in the United States Bankruptcy Court for the Northern District of Oklahoma under Chapter 7 of the Bankruptcy Code. Although Gregory initially received a discharge on March 22, 2006, the discharge was revoked on March 6, 2009, because Gregory failed to disclose multiple assets. The Bankruptcy Court, in a written order, found that Gregory had falsified his bankruptcy schedules to hide numerous assets and had obtained the bankruptcy discharge through fraud.

7. In 2008, Gregory was indicted by a federal grand jury and charged with bank fraud and causing a criminal act in violation of Sections 2 and 1344, respectively, of the United States Code. On November 13, 2008, Gregory pled guilty and admitted to defrauding a federally insured financial institution by fabricating documents pertaining to an insurance bond and providing those documents to the financial institution. Gregory remained under supervised release until January 19, 2016. During the term of his supervised release, Gregory was subject to a set of “Special Financial Conditions” imposed by the federal district court judge to whom his case was assigned. The Special Financial Conditions mandated that Gregory disclose all assets and liabilities to his probation officer and that he make available for review any and all records relating to any entity in which he owned an interest - Gregory carefully evaded these restrictions.

8. On August 23, 2018, the Department filed a Petition for Permanent Injunction and/or Other Equitable Relief against Defendant (“Petition”).

9. On September 15, 2018, Defendant was personally served.
10. On October 5, 2018, at the end of the twenty-day answer period set out in 12 O.S. § 2012 (A)(1), Defendant failed to file any responsive pleading to the Petition.
11. Plaintiff gave Defendant extra time past the twenty-day answer deadline but after no response was filed by Defendant, Plaintiff filed a Motion for Default Judgment on October 9, 2018.
12. The Order for Default Judgment was filed on October 9, 2018.
13. On October 12, 2018, Defendant's counsel called Plaintiff's counsel to request that Plaintiff agree to vacate the default judgment citing a purported clerical error for having failed to file a responsive pleading. Plaintiff's counsel advised Defendant's counsel that they would not join in the motion to vacate and that statements of judgment had already been filed in the counties wherein Defendant owns property.

### ARGUMENT

Defendant's Motion seeks to vacate the Default Judgment entered against him on October 9, 2018. The standard for such motions is well established in Oklahoma and requires that the defaulting party must show one of nine considerations listed in 12 O.S § 2031. Defendant argues that this Court should vacate the judgment based on an unavoidable casualty or misfortune that prevented the Defendant from prosecuting or defending his case.

Defendant relies on *American Bank of Commerce v. Chavis*, 1982 OK 66, 651 P.2d 1321, and states that the *Chavis* Court held that inadvertence or neglect should not deprive a party of his day in court due to a breakdown in office procedure. Defendant fails to state that the *Chavis* Court emphasized that the "breakdown in office procedure" was combined with reliance upon misinformation received by telephone from a deputy court clerk. It was these two factors that

resulted in the *Chavis* attorney filing untimely pleadings. *Id.* at 1324. That is not the case here. No secondary factor caused Defendant to miss the filing deadline in this case.

In a more recent case than *Chavis*, the Oklahoma Court of Civil Appeals opined in *Coulsen v. Owens*, 2005 OK CIV APP 93, 125 P. 3d 1233, that missing a deadline alone, without more, does not justify vacating a granted judgment. In fact, the court stated: “the simple act of negligently failing to timely file an answer is, by definition, not an unavoidable casualty. Further, such acts of negligence should not be too readily excused, as doing so countenances shoddy practice and encourages delays”. *Id.* at 1237-1238.

Coulsen, an adult passenger on a motorcycle operated by the defendant, suffered injuries due to an accident. Coulsen sued the defendant and set out specific damages of \$375,000. Due to confusion within the law firm representing the defendant, defendant’s attorney did not timely file an answer and approximately 25 days later and without a hearing, a judgment for \$375,000 was entered for Coulsen. Following the judgment, Coulsen attempted to collect the judgment through garnishment. Realizing no answer had been filed, defendant’s attorney called Coulsen’s counsel to ask them to voluntarily vacate the judgment and they refused. Defendant filed a motion to vacate the judgment and was successful at the trial level. On appeal, the Oklahoma Court of Civil Appeals reversed the trial court finding that there was no unavoidable casualty.

In *Coulsen*, the Court analyzed multiple cases that had resulted in vacation of a default judgment. Each case had extenuating circumstances warranting the vacation such as misdocketing, illness or reliance on erroneous docket information supplied by a court clerk. In *Coulsen*, the Court emphasized a vital point from *Chavis*, that “missing a statutory deadline to file a responsive pleading, due only to the negligence of an attorney, **by itself**, is not an unavoidable casualty.” *Id.* at 1239 [emphasis added]. The *Coulsen* court further emphasized the


strong public policy that absent an outside factor a plaintiff is “entitled to rely on the time periods set out in the statutes.” *Id.* at 1240.

**Conclusion**

Defendant’s Motion completely fails to support Defendant’s basis to set aside the default judgment herein. The Court has not abused its discretion; therefore, Plaintiff requests that this Court enter an order denying the vacation of the default judgment.

OKLAHOMA DEPARTMENT OF SECURITIES

Irving L. Faught, Administrator

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**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on the 31<sup>st</sup> day of October, 2018, a true and correct copy of the above and foregoing was mailed by U.S. Mail, with postage prepaid thereon, addressed to:

M. Michael Arnett  
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Brenda London, Paralegal