

December 10, 2010

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

U.S. COMMODITY FUTURES
TRADING COMMISSION, et al.,

Plaintiffs - Appellees,

v.

KENNETH WAYNE LEE, an individual,
et al.,

Defendants - Appellants,

and

PRESTIGE VENTURES CORP., a
Panamanian corporation, et al.,

Defendants.

No. 10-6276
(D.C. No. 5:09-CV-01284-R)
(W.D. Okla.)

ORDER

This appeal is ABATED pending the district court's decision on the appellants' post-judgment motions filed on December 8, 2010. The motions appears to have been filed timely. Fed. R. App. P. 4(a)(4)(A)(iv); Fed. R. Civ. P. 59(e), 60(b).

After the district court disposes of the motions, the appellants are directed to file a copy of the district court's order with this court immediately. The previously filed notice of appeal ripens to appeal *the final order and judgment* after the district court enters an order disposing of the post-judgment motions. Fed. R. App. P. 4(a)(4)(B)(i); see also id.

4(a)(4)(B)(ii) and Breeden v. ABF Freight Sys., Inc., 115 F.3d 749, 752 (10th Cir. 1997) (party must file amended or new notice of appeal to appeal order on post-judgment motion).

Also after the district court's order is entered, the district court clerk shall file with this court a supplemental preliminary record, including the order disposing of and/or addressing the issues presented in the motions and an updated docket sheet. 10th Cir. R. 3.2(A).

If the district court has not disposed of the motion within *30 days* of the date of this order, the appellants shall file a joint status report with this court. The parties will receive additional direction following submission of the status report, if necessary. The appellants failure to file a timely status report may result in the dismissal of this appeal without further notice for failure to prosecute. See 10th Cir. R. 42.1.

Finally, the parties shall file the preliminary documents required by this court. No briefing schedule will be set until the district court resolves the post-judgment motions, however. See id. 27.2(B), (C).

Entered for the Court,
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk