

No. 10-6276

IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

U.S. Commodity Futures Trading  
Commission, et al.,  
Plaintiffs-Appellees,

v.

Ken Lee,  
Defendant-Appellant,

Sheila M. Lee,  
Relief Defendant-Appellant,

Darren Lee,  
Relief Defendant-Appellant,

David Lee,  
Relief Defendant-Appellant,

and

PrestigeVentures Corp., a  
Panamanian corporation, et al.,

Defendants.

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Stephen J. Moriarty,

Receiver.

No. 10-6276

Motion for Extension of  
Time to File Appellees'  
Brief

Appellees Commodity Futures Trading Commission and Oklahoma  
Department of Securities  
Motion for Extension of Time

Appellees U.S. Commodity Futures Trading Commission (“CFTC”) and the Oklahoma Department of Securities (“ODS”) hereby request a thirty day extension to file Appellees’ brief in this appeal. Currently, Appellees’ brief is due on April 18, 2011. If the court grants Appellees’ request for a thirty day extension to file, Appellees’ brief would be due on May 17, 2011. Appellant’s reply brief would then be due on May 31, 2011.

In support of their motion, Appellee CFTC states:

1. Appellants’ record in this case exceeds 4400 pages. Contained in those 4400 pages are several complete condensed deposition transcripts (printed 4 pages to a single sheet).
2. Undersigned counsel for Appellee CFTC is also involved in five ongoing rulemakings that are being promulgated by the CFTC under expedited schedules under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Specifically, Dodd-Frank requires the CFTC to promulgate more than 30 substantive rules within one year of passage of the Act (*i.e.*, before July 21, 2011). This has been properly characterized as a “Herculean” task, unprecedented in the history of the agency or of the commodities markets. These rules will completely

reshape the way in which the commodities and derivatives markets function. Because the CFTC is a small agency, it is not possible for undersigned counsel to pass her rulemaking responsibilities on to other agency counsel in order to meet the Court's current briefing schedule.

4. The Federal Government is presently operating under a continuing resolution that is set to expire on April 8, 2011. Should Congress fail to enact a federal budget for this fiscal year, or otherwise extend the continuing resolution presently in place, the government will shutdown, and all non-essential employees will be furloughed and prohibited by law from performing actions related to their employment. *See* 31 U.S.C. § 1341 ("Antideficiency Act"). For Appellee CFTC, this includes complying with the Court's April 18, 2011 deadline to file its brief. The requested extension should allow Appellee CFTC to fulfill all of its obligations without violating any federal laws should there be a shutdown in April.

5. Appellee CFTC is coordinating with Appellee ODS to file a single brief in this matter.

6. Counsel for Appellee CFTC contacted Appellants by email to determine whether they consented to the requested extension on April

5, 2011. Appellees attempted to contact each Appellant via telephone at the numbers listed on their respective Motions for Leave to Proceed on Appeal Without Prepayment of Costs or Fees. Neither Appellees nor the Receiver have any other contact information for Appellants.<sup>1</sup> As of the date of this filing, Appellant Darren Lee did not consent to the request for the extension.

Respectfully submitted,

Dan M. Berkovitz  
General Counsel

Gloria P. Clement  
Acting Deputy General Counsel



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<sup>1</sup> Relief Defendant/Appellant Darren Lee provided an address at which he would be able to receive mail in his Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees, filed with this Court on March 4, 2011. Appellees will serve all the Lees by overnight mail at that address.

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Dated: April 6, 2011

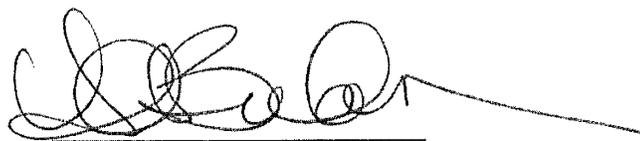
CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing Motion to Extension of Time was served by ECF and overnight express service on April 6, 2011 on the following:

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Sheila Lee  
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