

Motions

5:04-cv-01205 Oklahoma Department of Securities v. Sunset Financial Group Inc et al

U.S. District Court - Oklahoma Western[LIVE]

U.S. District Court - Western District of Oklahoma[LIVE]

Notice of Electronic Filing

The following transaction was received from Labarthe, Patricia A entered on 10/25/2004 at 2:29 PM CDT and filed on 10/25/2004

Case Name: Oklahoma Department of Securities v. Sunset Financial Group Inc et al
Case Number: 5:04-cv-1205
Filer: Oklahoma Department of Securities
Document Number: 3

Docket Text:

MOTION to Remand by Oklahoma Department of Securities. (Attachments: # (1) Exhibit 1-Petition for Permanent Injunction and Other Equitable Relief# (2) Exhibit 2-Sheriff's Return# (3) Exhibit 3-Certified Mail Return# (4) Exhibit 4-Petition for Writ of Habeas Corpus)(Labarthe, Patricia)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1041971380 [Date=10/25/2004] [FileNumber=352414-0]
] [62297aa847b2bcb3c608f9528df1bd63e616d6132ce826e156c4729521da058be4f
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Document description:Exhibit 1-Petition for Permanent Injunction and Other Equitable Relief

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1041971380 [Date=10/25/2004] [FileNumber=352414-1]
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Document description:Exhibit 2-Sheriff's Return

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1041971380 [Date=10/25/2004] [FileNumber=352414-2]
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Document description:Exhibit 3-Certified Mail Return

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1041971380 [Date=10/25/2004] [FileNumber=352414-3]
] [8274d5c6421d861de0ffe70c9a772025dd494cf82d0b1e499da6844f629b1fd4ad7
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Document description:Exhibit 4-Petition for Writ of Habeas Corpus

Original filename:n/a

Electronic document Stamp:

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5:04-cv-1205 Notice will be electronically mailed to:

Patricia A Labarthe pal@securities.state.ok.us,

5:04-cv-1205 Notice will be delivered by other means to:

Emzie Hulett
P O Box 428
Alpharetta, GA 30004

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

Oklahoma Department of Securities)	
<i>ex rel.</i> Irving L. Faught, Administrator,)	
)	
Plaintiff,)	
)	
v.)	CIV-04-1205T
)	
Sunset Financial Group, Inc., an Oklahoma)	
corporation; Vision Services, Inc., an Oklahoma)	
corporation; Amsterdam Fidelity Business Trust,)	
a Nevada limited liability partnership; EASE)	
Corporation, an Oklahoma corporation; Gold Star)	
Properties, Inc., an unincorporated association;)	
Rebates International, Inc., a Nevada corporation;)	
Betty Solomon Brokerage, Inc., an Oklahoma)	
corporation; Emzie Huletty, an individual;)	
Grover H. Phillips, an individual; Nicholas Krug,)	
an individual; Charles E. Elliott, an individual;)	
Terry Mahon, an individual; Denver Large,)	
an individual; Betty G. Solomon, an individual;)	
and Donald J. Wood, an individual,)	
)	
Defendants.)	

MOTION TO REMAND AND BRIEF IN SUPPORT

Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator, moves this Court to remand the above captioned case to the Oklahoma County District Court, Oklahoma County, State of Oklahoma (“District Court”), and offers this brief in support of its motion.

Summary of Action

On September 19, 2003, the Oklahoma Department of Securities (“Department”) filed a civil action in the District Court against Defendants Sunset Financial Group, Inc., Vision Services, Inc., Amsterdam Fidelity Business Trust, EASE Corporation, Gold Star Properties,

Inc., Rebates International, Inc., Betty Solomon Brokerage, Inc., Emzie Huletty, Grover H. Phillips, Nicholas Krug, Charles E. Elliott, Terry Mahon, Denver Large, Betty G. Solomon and Donald J. Wood (collectively, "Defendants"). Defendants Sunset Financial Group, Inc., Vision Services, Inc., Amsterdam Fidelity Business Trust, EASE Corporation, Betty Solomon Brokerage, Inc., Emzie Huletty, Grover H. Phillips, Betty G. Solomon and Donald J. Wood were residents of the state of Oklahoma at the time the action was filed. Defendants Gold Star Properties, Inc., Rebates International, Inc., Nicholas Krug, Charles E. Elliott, Terry Mahon, and Denver Large were not residents of the state of Oklahoma at the time the action was filed.

Plaintiff alleged that the Defendants violated the Oklahoma Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 & Supp. 2003), by engaging in a fraudulent scheme involving the Defendants' collection of fees from investors interested in obtaining commercial or residential loans. In return for the investors' fees, Defendants gave investors a rebate coupon that guaranteed full repayment of the commercial or residential loan at the end of five years. *See* Exhibit "A," Petition for Permanent Injunction and Other Equitable Relief ("Petition"). Plaintiff obtained a temporary restraining order against Defendants that restrained them from their illegal activities. The summons, Petition and temporary restraining order were personally served on Defendant Emzie Huletty ("Defendant Huletty") by the Oklahoma County Sheriff on September 19, 2003. *See* Exhibit "B," Sheriff's Return. Defendant Huletty also received the summons and Petition by certified mail on September 20, 2003. *See* Exhibit "C," United States Postal Service Domestic Return Receipt.

Plaintiff has settled this case with eight (8) Defendants. Specifically, on April 14, 2004, Plaintiff reached a settlement with Gold Star Properties, Inc., Nicholas Krug and Charles E. Elliott, by executing an administrative agreement. On September 3, 2004, Plaintiff reached a

settlement with Defendants Amsterdam Fidelity Business Trust, Rebates International, Inc., Grover H. Phillips, Terry Mahon and Denver Large (“Rebates Defendants”), and the District Court issued a final order, judgment and permanent injunction against the Rebates Defendants. The District Court issued orders of temporary injunction on October 24, 2003, against Defendants Betty Solomon Brokerage, Inc. and Betty G. Solomon and, on April 2, 2004, against Defendant Huletty.

At the time Plaintiff filed its Petition, and until at least May, 2004, Defendant Huletty resided at 6214 Diane Drive, Oklahoma City, Oklahoma. On April 28, 2004, Defendant Huletty filed a Petition for Writ of Habeas Corpus in the District Court against Plaintiff and other state regulators and signed the petition using the Diane Drive address. See Exhibit “D,” Petition for Writ of Habeas Corpus. At a hearing before Judge Carolyn Ricks on May 12, 2004, Defendant Huletty represented to the District Court that he resided at 3540 NW 56th Street, #317, Oklahoma City, Oklahoma, and at 6900 Roswell Road, # G6, Atlanta, Georgia. Since that date, Defendant Huletty has never provided information to the Department or filed with the District Court any information regarding a change of address.

On September 24, 2004, Defendant Emzie Huletty filed a Notice of Removal in this Court in an effort to remove the pending matter from state to federal court.¹ However, the time has expired within which Defendant Huletty may seek the removal of the pending matter to federal court. Further, there is no basis in law for such a removal.

I. Defendant’s Notice of Removal is Untimely and Defective

28 U.S.C. §1446, provides in part:

- (b) The notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of

¹ Defendant Huletty, however, recites that he seeks removal to the United States District Court for the Northern District of Oklahoma.

a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action.”

Defendant Huletty filed the Notice of Removal on September 24, 2004. Defendant Huletty received a copy of Plaintiff’s initial pleading on September 19, 2003, and again on September 20, 2003, as evidenced by the returns filed by the Oklahoma County Sheriff’s office and the postal delivery receipt signed by Emzie Huletty, Jr. Defendant Huletty filed the Notice of Removal in excess of thirty days from his receipt of Plaintiff’s initial pleading. *See Exhibits “B” and “C.”* Finally, Plaintiff has not filed any amended pleading, motion, order or other paper from it can be ascertained that the case has become removable.

Defendant Huletty also bases the removal request on diversity of citizenship under 28 U.S.C. §1332. For any such claim to be timely, the Notice of Removal would have been required to be filed within one year of the September 19, 2003 commencement of the initial action. Defendant Huletty failed to do so.

II.

The Federal Court Lacks Jurisdiction

A case must be remanded to state court if the federal district court lacks subject matter jurisdiction. *Schrader v. Hamilton*, 959 F. Supp. 1205 (C.D. CA. 1997). Where jurisdiction is not premised on diversity and none of the claims asserted “arise under” federal law, the federal court lacks jurisdiction and must remand the action to state court. *Schrader v. Hamilton, supra*.

In *Grabow v. Pricewaterhousecoopers, LLP*, 313 F. Supp. 2d 1152 (N.D. OK 2004), the Court stated:

The removal statutes require a case to be remanded to state court if at any time before final judgment it appears the court lacks subject matter jurisdiction. 28 U.S.C. §1447 (c). Federal courts are courts of limited jurisdiction. The party seeking to invoke the jurisdiction of the federal courts has the burden of proving the existence of jurisdiction and the burden of proof in removal cases is on the defendant.

No federal question of law is involved

Plaintiff's Petition alleges that Defendant Huletty engaged in violations of the registration and anti-fraud provisions of the Oklahoma Securities Act. However, Defendant Huletty claims in the Notice of Removal that:

“The action currently pending in the District Court of Oklahoma County is based upon federal law and or statutes regulated by the Securities Exchange Commission. The United States District Courts retained original jurisdiction.”

It is clear from a review of the Plaintiff's Petition that this action is predicated upon state securities law claims only. The Act does not grant the Plaintiff jurisdiction to assert violations of any federal securities laws or any other federal laws. The Tenth Circuit in *Fajen v. Foundation Reserve Insurance Company, Inc.*, *supra*, held that to support removal jurisdiction:

the required federal right or immunity must be an essential element of the plaintiff's cause of action, and that the federal controversy must be “disclosed upon the face of the complaint, unaided by the answer or by the petition for removal.” *Madsen v. Prudential Federal Savings & Loan Assn.*, 635 F. 2d 797, 800 (10th Cir. 1980) (citing *Gully v. First National Bank*, 299 U.S. 109, 113, 57 S. Ct. 96, 81 L. Ed. 70 (1936)), cert. denied, 451 U.S. 1018, 101 S. Ct. 3007, 69 L. Ed.2d 389 (1981).

The subject of Plaintiff's case is limited to state securities law violations and reveals no federal controversy on its face.

On April 30, 2004, Defendant Huletty filed in District Court, a Petition for Writ of Habeas Corpus against Plaintiff, other Oklahoma regulators, a District Court Receiver and counsel for the Receiver. *See* Exhibit "D," Petition for Writ of Habeas Corpus, Case Number CJ-2004-3664. Defendant Huletty claims in his Notice of Removal that the amount in controversy exceeds Ten Million Dollars and involves a federal question of law. He also claims he and his corporation seek damages in the amount of Twenty Million Dollars because of civil rights violations perpetrated against them.

The claims made in the petition filed by Defendant Huletty in Case Number CJ-2004-3664 have no relevance to the Plaintiff's case that Defendant Huletty seeks to remove from state to federal court. Plaintiff's case, based solely on violations of state law as described above, seeks injunctive relief, an asset freeze, the appointment of a receiver, an accounting, restitution, rescission, disgorgement, and a civil penalty against Defendant Huletty of \$50,000. *See* Exhibit "A," Petition. Plaintiff's Petition makes no reference to the amounts of Ten Million Dollars or Twenty Million Dollars or any federal question of law.

Defendant Huletty's reference to the original jurisdiction of the United States District Courts has no application to this case and a remand to the District Court is proper.

No diversity jurisdiction exists

Defendant Huletty also bases the removal request on diversity of citizenship under 28 U.S.C. §1332. Defendant Huletty's argument is without merit. Plaintiff's Petition against Defendant Huletty was served on Defendant Huletty at his Oklahoma office and at his Oklahoma residence in September, 2003. Thereafter, Defendant Huletty continued to use an Oklahoma address until his filing of the Notice of Removal on September 24, 2004. The majority of the

Defendants in Plaintiff's case, like Defendant Huletty, were residents of Oklahoma at the time of the initial filing and continue to be Oklahoma residents. See Exhibit "A," Petition.

Jurisdiction based on diversity does not exist and none of the claims asserted by Plaintiff arise under federal law as required by 28 U.S.C. §1441. Therefore, the removal sought by Defendant Huletty is not proper. In *Caudill v. Ford Motor Company*, 271 F. Supp.2d 1324 (N.D. OK 2003), the court stated that federal removal jurisdiction is statutory in nature and is to be strictly construed and all doubts are to be resolved against removal. See also *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-09, 61 S. Ct. 868, 872, 85 L.Ed. 1214 (1941); and *Fajen v. Foundation Reserve Insurance Company, Inc.*, 683 F. 2d 331 (10th Cir. 1982).

Conclusion

Defendant Huletty's Notice of Removal is defective because it was not filed within the time required by 28 U.S.C. § 1446(b). Further, the state action is not one that is removable to federal court because Defendant Huletty failed to prove any basis for federal court jurisdiction. Plaintiff respectfully requests that this matter be remanded to state court.

Respectfully submitted,

s/ Patricia A. Labarthe
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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2004, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. I hereby certify that on October 25, 2004, I mailed a true and correct copy of the foregoing by first class mail, with postage pre-paid thereon to the following:

Emzie Huletty, *Pro Se*
3540 NW 56th Street, #317
Oklahoma City, OK 73112

Emzie Huletty, *Pro Se*
6900 Roswell Road, # G6
Atlanta, GA 30328

Emzie Huletty, *Pro Se*
P.O. Box 428
Alpharetta, GA 30004

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Day Edwards
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Terry D. Kordeliski, II
Riggs, Abney, Neal, Turpen, Orbison & Lewis
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Oklahoma City, OK 73118

Mark S. Edmondson
Miller Dollarhide
100 Park Avenue, Second Floor
Oklahoma City, OK 73102

Win Holbrook
Holbrook & Toffoli
120 North Robinson, Suite 2200
Oklahoma City, OK 73102

M. Michael Arnett
L. Justin Lowe
Arnett Law Firm
3133 NW 63rd Street
Oklahoma City, OK 73116

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Oklahoma City, OK 73116

Vision Services, Inc.
6412 N. Santa Fe. Suite B2
Oklahoma City, OK 73116

EASE Corporation
10014 Linenhall Drive
Sugarland, TX 77478

Kent Bridge
Oklahoma County Public Defender
320 Robert S. Kerr, Suite 611
Oklahoma City, OK 73102

Donald J. Wood
4128 NW 61st Terrace
Oklahoma City, OK 73112

s/ Patricia A. Labarthe

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

SEP 19 2003

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,)

v.)

Sunset Financial Group, Inc., an Oklahoma)
corporation; Vision Services, Inc., an Oklahoma)
corporation; Amsterdam Fidelity Business Trust,)
a Nevada limited liability partnership; EASE)
Corporation, an Oklahoma corporation; Gold Star)
Properties, Inc., an unincorporated association;)
Rebates International, Inc., a Nevada corporation;)
Betty Solomon Brokerage, Inc., an Oklahoma)
corporation; Emzie Huletty, an individual;)
Grover H. Phillips, an individual; Nicholas Krug,)
an individual; Charles E. Elliott, an individual;)
Terry Mahon, an individual; Denver Large,)
an individual; Betty G. Solomon, an individual; and)
Donald J. Wood, an individual,)

Defendants.)

CJ - 2003 - 7899

Case No.

PETITION FOR PERMANENT INJUNCTION

AND OTHER EQUITABLE RELIEF

COMES NOW the Plaintiff, Oklahoma Department of Securities ex rel. Irving L. Faught ("Department"), and for its claims against the above-named Defendants alleges and states:

OVERVIEW

1. This case involves violations of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 and Supp. 2002), by Sunset Financial Group, Inc., Vision Services, Inc., Amsterdam Fidelity Business Trust, EASE Corporation, Gold Star

Properties, Inc., Rebates International, Inc., Betty Solomon Brokerage, Inc., Emzie Huletty, Grover H. Phillips, Nicholas Krug, Charles E. Elliott, Terry Mahon, Denver Large, Betty G. Solomon and Donald J. Wood (collectively, "Defendants"). Specifically, the Department alleges Defendants offered and sold unregistered securities in violation of Section 301 of the Act, failed to register as broker-dealers or agents and/or employed unregistered agents in violation of Section 201 of the Act, perpetrated fraud in connection with the offer, sale or purchase of securities in violation of Section 101 of the Act, and unlawfully distributed sales literature in violation of Section 402 of the Act.

2. Schemes involving fictitious instruments termed "prime bank instruments" have proliferated in the past ten years. These prime bank schemes are characterized by:

- a. representations that the instruments involve "the world's 100 prime banks" or "the top 50 European or international banks";
- b. representations that the instruments are governed by the "International Chamber of Commerce";
- c. promises of unrealistic returns to investors;
- d. representations of little or no risk;
- e. representations of one or more guarantees; and
- f. an overly complex and nonsensical structure.

The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Office of Thrift Supervision, and United States Securities and Exchange Commission have all issued alerts to warn financial institutions and the investing public of these illegal schemes. See attached

Exhibits A and B. As alleged below, the securities offered and sold by the Defendants share characteristics of the bogus instruments that are the subject of the warnings attached.

JURISDICTION

3. The Administrator of the Department brings this action pursuant to Section 406.1 of the Act and is the proper party to bring this action against the Defendants.

4. Pursuant to Sections 2 and 413 of the Act, Defendants, in connection with their activities and the offer, sale, and purchase of securities, are subject to the provisions of the Act. By virtue of their transaction of business by contract and otherwise and commission of other acts in this state, Defendants are subject to the jurisdiction of this Court and to service of summons within or outside of this state.

5. Defendants have engaged and are engaging in acts and practices in violation of the Act. Unless enjoined, they will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object.

DEFENDANTS

6. Sunset Financial Group, Inc. ("Sunset") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. At all times material hereto, Sunset issued, offered and/or sold securities in and/or from Oklahoma.

7. Vision Services, Inc. ("Vision Services") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. Vision Services was suspended by the Oklahoma Secretary of State on June 21, 2001, but was reinstated on March 13, 2002. At all times material hereto, Vision Services issued, offered and/or sold securities in and/or from Oklahoma.

8. Amsterdam Fidelity Business Trust ("Amsterdam") is a Nevada limited liability partnership with its principal place of business in Stillwater, Oklahoma. At all times material hereto, Amsterdam issued, offered and/or sold securities in and/or from Oklahoma.

9. Gold Star Properties, Inc. ("Gold Star") is an unincorporated association with its principal place of business in Henderson, Arkansas. At all times material hereto, Gold Star offered and sold securities in and/or from Oklahoma.

10. EASE Corporation ("EASE") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. At all times material hereto, EASE offered and sold securities in and/or from Oklahoma.

11. Rebates International, Inc. ("Rebates") is a Nevada corporation with its principal place of business in Hollister, Missouri. At all times material hereto, Rebates offered and sold securities in and/or from Oklahoma.

12. Betty Solomon Brokerage, Inc. ("Solomon Brokerage") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. At all times material hereto, Solomon Brokerage issued, offered and/or sold securities in and/or from Oklahoma.

13. Emzie Huletty ("Huletty") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of Sunset, Vision Services and EASE. At all times material hereto, Sunset, Vision Services and EASE acted through and under the control of Huletty.

14. Grover H. Phillips ("Phillips") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of

Amsterdam. At all times material hereto, Amsterdam acted through and under the control of Phillips.

15. Nicholas Krug ("Krug") is an individual who, at all times material hereto, was a resident of Arkansas doing the acts complained of in his own name and/or in the name of Gold Star. At all times material hereto, Gold Star acted through and under the control of Krug.

16. Charles E. Elliott ("Elliott") is an individual who, at all times material hereto, was a resident of Arkansas doing the acts complained of in his own name and/or in the name of Gold Star. At all times material hereto, Gold Star acted through and under the control of Elliott.

17. Terry H. Mahon ("Mahon") is an individual who, at all times material hereto, was a resident of Missouri doing the acts complained of in his own name and/or in the name of Rebates. At all times material hereto, Rebates acted through and under the control of Mahon.

18. Denver Large ("Large") is an individual who, at all times material hereto, was a resident of Missouri doing the acts complained of in his own name and/or in the name of Rebates. At all times material hereto, Rebates acted through and under the control of Large.

19. Betty G. Solomon ("Solomon") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in her own name and/or in the name of Solomon Brokerage. At all times material hereto, Solomon Brokerage acted through and under the control of Solomon.

20. Donald J. Wood ("Wood") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of EASE. At all times material hereto, EASE acted through and under the control of Wood.

NATURE OF THE CASE

21. Beginning in or around January, 2001, Defendants offered and sold interests in a fraudulent scheme characterized as an international or domestic high-yield investment program ("Investment Program") in and/or from the state of Oklahoma to investors ("Investors"). Defendants worked in association with one another. Each Defendant played a separate role for which they each received a separate fee.

22. Defendants offered the interests in the Investment Program in connection with their residential and commercial loan services. Investors were required to pay at least seventeen percent (17%) of the appraised or market value of the real estate or business to be financed. Defendants represented that the fees would be held in trust by Defendant Amsterdam and invested in the Investment Program. It was further represented by Defendants that the Investment Program would return to the Investors one hundred percent (100%) of the principal value of the loan at the end of five (5) years. This promise of future payment was evidenced by a "Cash-Back" Rebate Coupon Certificate issued by Defendant Rebates.

23. Defendants represented to Investors that their money would be invested in or through "G7 Qualified Investment Banks" and the "top 100 banks in the world." Defendants promised high, unrealistic returns.

24. Defendants represented that the investment was guaranteed by Defendants Rebates and Amsterdam, that there was no risk of loss and that certain Defendants were bonded and/or insured.

25. Defendants' representations were made through the use of oral communications and written sales materials.

26. Investors had no control over or responsibility for their funds once the funds were provided to the Defendants.

27. From at least January, 2001, Defendants received substantial sums of money from the Investors, including residents of Oklahoma County, Oklahoma, for the purchase of the interests in the Investment Program.

FIRST CAUSE OF ACTION

Violation of Section 301 of the Act: Failure to Register Securities

28. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 27 above.

29. The Investment Program interests are securities as defined by Section 2 of the Act.

30. The securities offered and sold by Defendants are not and have not been registered under the Act as required by Section 301 of the Act. See Affidavit attached as Exhibit C. The securities have not been offered or sold pursuant to an exemption from registration pursuant to Section 401 of the Act. See Affidavit attached as Exhibit C.

31. By reason of the foregoing, Defendants violated, are violating, and unless enjoined, will continue to violate, Section 301 of the Act.

SECOND CAUSE OF ACTION

Violation of Section 201 of the Act: Failure to Register as Broker-Dealer and Agents and Employing Unregistered Agents

32. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding cause of action.

33. Defendants are not registered under the Act as broker-dealers, broker-dealer agents, or issuer agents under Section 201 of the Act. See Affidavits attached as Exhibits D and E.

34. Defendants Sunset, Vision Services, Amsterdam and Solomon Brokerage are issuers as defined in Section 2 of the Act. Defendants Sunset, Vision Services, Amsterdam and Solomon Brokerage employed agents who were not registered under the Act to offer or sell securities.

35. Defendants Huletty, Phillips, Krug, Elliott, Mahon, Large, Solomon and Wood, by virtue of their efforts and activities in this state in effecting transactions in securities for the account of others or for their own account, are issuer agents, as defined in Section 2 of the Act. Defendants Huletty, Phillips, Krug, Elliott, Mahon, Large, Solomon and Wood transacted business in this state as issuer agents without benefit of registration under the Act.

36. By reason of the foregoing, the Defendants have violated, are violating, and unless enjoined, will continue to violate, Section 201 of the Act.

THIRD CAUSE OF ACTION

Violation of Section 101(2) of the Act: Untrue Statements of Material Fact and Omissions of Material Fact in Connection with Offer, Sale or Purchase of Securities

37. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

38. From at least January, 2001, and continuing to the present, Defendants, in connection with the offer, sale or purchase of interests in the Investment Program, directly and indirectly, made untrue statements of material fact and omitted to state material facts necessary

in order to make the statements made, in light of the circumstances under which they were made, not misleading. The untrue statements include, but are not limited to, the following:

- a. that there was no risk of losing the investment;
- b. that the Investment Program is not a security;
- c. that the rebate coupon is a "gift" when the purchase of an interest in the Investment Program is required to receive the coupon;
- d. that Investor funds would be forwarded to the "G7 Qualified Investment Banks";
and
- e. that one or more mortgage companies had endorsed the use of the Investment Program for their customers.

The omissions include, but are not limited to, the following:

- a. that on April 9, 2001, Oklahoma Department of Consumer Credit revoked the mortgage broker license of Truth Financial Services, Inc., a company for which Defendant Huletty was an officer and the representative, for violations of Oklahoma law including fraudulent loan documentation;
- b. that on October 20, 2000, Truth Financial Services, Inc. and its founder and chief executive officer, Defendant Huletty, were ordered by the Arkansas Securities Commissioner, State of Arkansas Securities Department, to cease and desist from further actions in the state of Arkansas in connection with the business of mortgage loans and loan brokering until such time as they are properly registered or exempted from registration;
- c. that on March 9, 2001, Defendant Large was convicted, in the Circuit Court of Pearl River County, State of Mississippi, of seventy-eight (78) counts of sales of

unregistered securities, securities fraud by misrepresentation, and violation of the Mississippi RICO Act; was ordered to pay restitution to his victims in the sum of \$562,000.00; and was sentenced to a suspended term of seventy-eight (78) years in prison, subject to certain terms and conditions;

d. that as a condition of his suspension, Defendant Large is prohibited from engaging in the sale of securities, real property, time shares or other interests in real property;

e. that the Investment Program interests are securities;

f. that the Investment Program interests are not registered as securities under the Act nor are they exempt from registration;

g. specific information about Defendants' uses of Investor funds;

h. an explanation of how Investor returns are earned and calculated; and

i. that Investors might not get the profit promised by Defendants.

39. By reason of the foregoing, Defendants, directly and indirectly, violated, are violating, and unless enjoined, will continue to violate Section 101(2) of the Act.

FOURTH CAUSE OF ACTION

Violation of Section 101(3) of the Act: Engaging in any Act, Practice, or Course of Business which Operates or would Operate as a Fraud or Deceit upon any Person

40. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

41. Defendants, in connection with the offer, sale or purchase of securities, and through the use of the untrue statements of material fact and the omissions of material facts

described in paragraphs 21-24 and 38 above, engaged in an act, practice, or course of business that operated as a fraud or deceit upon Investors.

42. By reason of the foregoing, Defendants, directly and indirectly, violated, are violating, and unless enjoined, will continue to violate Section 101(3) of the Act.

FIFTH CAUSE OF ACTION

Violation of Section 402 of the Act: Unlawfully Distributing Sales Literature

43. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

44. Defendants, in connection with the offer and/or sale of securities, distributed sales literature to Investors without filing such sales literature with the Department.

45. By reason of the foregoing, Defendants, directly and indirectly, violated, are violating, and unless enjoined, will continue to violate Section 402 of the Act.

PRAYER FOR RELIEF

Defendants have engaged in acts and practices in violation of the Act and have, as a result of these activities, received a substantial amount of money from numerous Investors. Unless enjoined, the Defendants will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object. A danger exists that the money received by Defendants from Investors or money or securities held by Defendants on behalf of Investors will be lost, removed or transferred. A temporary restraining order to issue instanter and temporary and permanent injunctions and other equitable relief to issue against Defendants are necessary to preserve these funds, securities and the records relating thereto and to prevent further violations of the Act.

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays that this Court grant the following relief:

I.

1. A temporary restraining order instanter, a temporary injunction during the pendency of this action, and permanently thereafter, an order restraining and enjoining the Defendants, their subsidiaries, officers, directors, agents, servants, employees, assigns, attorneys, and those persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, who receive actual notice of the restraining order or temporary injunction, by personal service, facsimile or otherwise, and each of them from:

- a. transacting business in this state as a broker-dealer, agent, investment adviser and/or investment adviser representative;
- b. offering and selling any security in this state;
- c. making untrue statements of material fact in connection with the offer, sale, and/or purchase of securities in and/or from this state;
- d. omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, in connection with the offer, sale, and/or purchase of securities in and/or from this state;
- e. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the offer, sale, and/or purchase of securities in and/or from this state; and

- f. distributing any sales literature in any manner in this state in connection with the offer, sale, and/or purchase of securities in and/or from this state.

II.

An order prohibiting Defendants, their agents, servants, employees, assigns and all those persons, directly or indirectly, acting on their behalf, under their direction and control, and/or in active concert or participation with them who receive actual notice of the order, by personal service, facsimile or otherwise, and each of them from tampering with, mutilating, altering, erasing, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks, tapes or other data recordings of any type, pertaining to or referring to Defendants or any financial transactions by Defendants or to which Defendants were parties;

III.

An order freezing the assets of Defendants;

IV.

An order appointing a receiver *pendente lite* for Defendants Sunset, Vision Services, Amsterdam, EASE, Solomon Brokerage, Huletty, Phillips, Solomon and Wood, empowering said receiver to marshall and take possession of the books, records, funds and assets of such Defendants; to undertake whatever manner of legal or equitable action is required to preserve or maintain the assets of such Defendants; and to operate or liquidate the assets of Defendants Sunset, Vision Services, Amsterdam, EASE, Solomon Brokerage, Huletty, Phillips, Solomon and Wood for the benefit of the Investors of Defendants, as equity may require;

V.

An order requiring Defendants to provide a full and accurate accounting of all monies received by them as a result of the scheme and a full and accurate accounting of the disposition of those monies;

VI.

An order requiring Defendants to produce all books and records, both corporate and individual, as are necessary to obtain an accounting of the amount, source and disposition of funds received in connection with offers and sales of the securities described in this Petition, and the identity of any and all bank accounts to which any deposit(s) were made of funds obtained in connection with the sales of the securities described in this Petition.

VII.

An order requiring Defendants to rescind any and all transactions involving the sale of the securities described in this Petition and/or to make restitution to any and all Investors who purchased the securities described in this Petition or who transferred money to Defendants for the purpose of making securities investments on their behalf;

VIII.

An order requiring Defendants, their agents, servants, employees, assigns, and all persons, directly or indirectly, acting on their behalf, under their direction and control, and/or in active concert or participation with them, to disgorge all ill-gotten gains;

IX.

An order imposing a civil penalty against each Defendant in the amount of Fifty Thousand Dollars (\$50,000.00); and

X.

Such other equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully Submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
IRVING L. FAUGHT, ADMINISTRATOR

By: *Patricia A. Labarthe*

Patricia A. Labarthe, #10391

Oklahoma Department of Securities

120 North Robinson, Suite 860

Oklahoma City, Oklahoma 73102

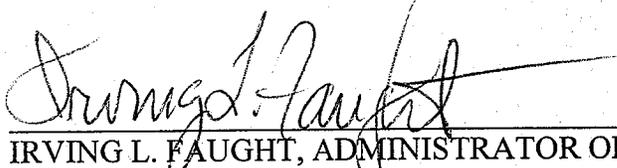
Telephone (405) 280-7700

Fax (405) 280-7742

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

Irving L. Faught, of lawful age, being first duly sworn deposes and says that he is the Administrator of the Oklahoma Department of Securities, that he has read the foregoing Petition and knows the contents thereof, and that the matters and things stated therein have been provided to him by staff members of the Department under his authority and direction, and are true and correct to the best of his knowledge, information and belief.

(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
(405) 280-7700

Subscribed and sworn to before me this 18th day of September, 2003.



Notary Public

My Commission Expires: August 26, 2005
My Commission No.: 01013792
(SEAL)

AFFIDAVIT

STATE OF OKLAHOMA)
) SS.
COUNTY OF OKLAHOMA)

I, Kenneth G. Maillard, Director of Registrations of the Oklahoma Department of Securities (Department), swear that I have conducted an examination of the registration files of the Department pertaining to current and past registrations for the offer or sale of securities in Oklahoma and that nowhere therein was found a record of an application for the registration of securities pursuant to Section 301 of the Oklahoma Securities Act (Act), OKLA. STAT. tit. 71, §1-413, 501, 701-703 (2001 & Supp. 2002), for Sunset Financial Group, Inc., Vision Services, Inc., Amsterdam Fidelity Business Trust, EASE Corporation, Gold Star Properties, Inc., Rebates International, Inc. and Betty Solomon Brokerage, Inc.(Companies).

I further swear that nowhere within the registration files for the Department was found a record of a registration of securities for any of the Companies pursuant to Section 301 of the Act.

I further swear that nowhere within the exemption files for the Department was found a record of a notice of intent to claim exemption from Sections 301 and 402 of the Act for any of the Companies pursuant to any subsection of Section 401 of the Act.

(SEAL)

Kenneth G. Maillard

Kenneth G. Maillard
DIRECTOR OF REGISTRATIONS
OKLAHOMA DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102
(405) 280-7700

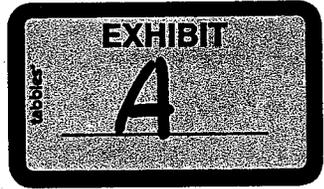
Subscribed and sworn to before me this 17th day of September, 2003.

(NOTARIAL SEAL)

Philip Anthony

NOTARY PUBLIC
14515

My Commission Expires:
My Commission Expires Sep. 18, 2004.
My Commission Expires Sep. 18, 2004.



STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102
Telephone (405) 280-7700

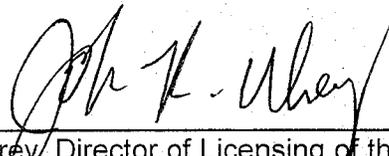
AFFIDAVIT

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

I, John K. Ulrey, Director of Licensing of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities pertaining to current and past registered broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives and issuer agents and that nowhere therein was found a record of the registration pursuant to Section 201 of the Oklahoma Securities Act (Act) for the following:

Sunset Financial Group, Inc.
Vision Services, Inc.
Amsterdam Fidelity Business Trust
EASE Corporation
Gold Star Properties, Inc.
Rebates International, Inc.
Betty Solomon Brokerage, Inc.

(SEAL)



John K. Ulrey, Director of Licensing of the
OKLAHOMA DEPARTMENT OF SECURITIES

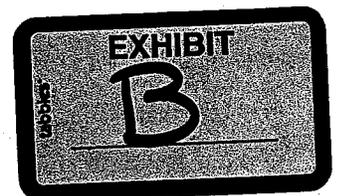
Subscribed and sworn to before me this 17th day of SEPT., 2003:

(NOTARIAL SEAL)



Notary Public

My Commission Expires: **August 26, 2005**
My Commission No.: **01013792**



STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102
Telephone (405) 280-7700

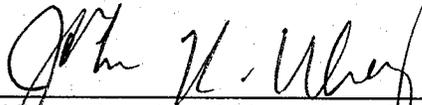
AFFIDAVIT

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

I, John K. Ulrey, Director of Licensing of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities pertaining to current and past registered broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives and issuer agents and that nowhere therein was found a record of the registration pursuant to Section 201 of the Oklahoma Securities Act (Act) for the following:

- Emzie Huletty
- Grover H. Phillips
- Nicholas Krug
- Charles E. Elliott, Sr.
- Terry Mahon
- Denver Large
- Betty G. Solomon
- Donald J. Wood

(SEAL)



John K. Ulrey, Director of Licensing of the
OKLAHOMA DEPARTMENT OF SECURITIES

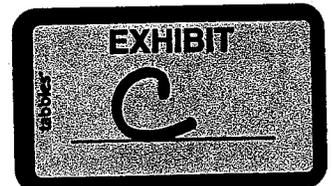
Subscribed and sworn to before me this 16 day of Sept., 2003.

(NOTARIAL SEAL)



Notary Public

My Commission Expires: August 26, 2005
01013792



Investor Alerts

So-Called "Prime" Bank and Similar Financial Instruments, Information for Investors Bulletin No. II-101 (10/93)

The Securities and Exchange Commission ("Commission") is alerting investors and regulated entities to the recent escalation in the number of possibly fraudulent schemes involving the issuance, trading or use of so-called "prime" bank, "prime" European bank or "prime" world bank financial instruments.¹ These instruments typically take the form of notes, debentures, letters of credit, and guarantees. Also typical in the offer of these instruments is the promise or guarantee of unrealistic rates of return; e.g., a 150 percent annualized rate of "profits." Common targets of these schemes include both institutional and individual investors, who may also be induced to participate in possible "Ponzi" schemes involving the pooling of investors' funds to purchase "prime" bank financial instruments.

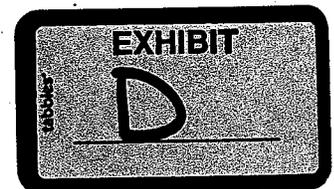
On October 21, 1993, the federal financial institution supervisory agencies² issued an Interagency Advisory to their regulated financial institutions. The Interagency Advisory also warned of the use of schemes involving "prime" bank financial instruments and noted that:

The agencies had been advised that "individuals have been improperly using the names of large, well-known domestic and foreign banks, the World Bank, and central banks in connection with their 'Prime Bank' schemes."

These institutions "had no knowledge about the unauthorized use of their names or the issuance or anything akin to 'Prime Bank'-type financial instruments."

The staffs of the federal financial institution supervisory agencies are unaware of the legitimate use of any financial instrument called a "Prime Bank" note, guarantee, letter of credit, debenture, or similar type of financial instrument.

1. These schemes do not involve the offer or sale of financial instruments issued by any financial institution having the word "prime" in its name; rather, that word (or a synonym, as in the phrase "top fifty world banks") is used to refer, generically, to financial institutions of purportedly high repute and financial soundness.
2. These agencies are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.



Financial institutions should be attentive to the attempted use of traditional types of financial instruments that are referred to in an unconventional manner, "such as a letter of credit referencing forms allegedly produced or approved by the International Chamber of Commerce."

As to this latter point, the Interagency Advisory referred to examples of "bogus schemes involving the supposed issuance of an 'ICC 3034' or an 'ICC 3039' letter of credit by a domestic or foreign bank."

The Interagency Advisory also noted that many of the illegal or dubious schemes that have come to the attention of regulatory agencies "appear to involve overly complex loan funding mechanisms." In the eyes of an unsophisticated investor, this complexity may make a questionable investment appear worthwhile. The Commission warns investors and those who may advise them, particularly broker-dealers and investment advisors, of this possible hallmark of fraud and reminds them of a basic rule for avoiding securities fraud, "If it looks too good to be true, it probably is!"

* * * *

The Commission requests that those with information regarding the offer or sale of "prime" bank or similar financial instruments provide that information to one of the Commission offices listed below. When information is sent to one of the Commission's regional or district offices, it should be sent to the attention of the Assistant Regional Administrator (Enforcement). (List of Commission Offices omitted)



**BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM**

WASHINGTON, D. C. 20551

**DIVISION OF BANKING
SUPERVISION AND REGULATION**

**SR 93-61 (FIS)
October 25, 1993**

**TO THE OFFICER IN CHARGE OF SUPERVISION
AT EACH FEDERAL RESERVE BANK**

SUBJECT: Interagency Advisory Concerning "Prime Bank" Financial Instruments

Recently, Board staff noted an increase in the number of questionable domestic and international financial schemes involving so-called "Prime Bank" financial instruments, such as Prime Bank Notes, Prime Bank Guarantees, and Prime Bank Letters of Credit. Working with the enforcement staffs of the other federal financial institutions supervisory agencies and with U.S. and international law enforcement agencies, we prepared, on behalf of all of the supervisory agencies, the attached Interagency Advisory concerning the use of these types of illegitimate financial instruments.

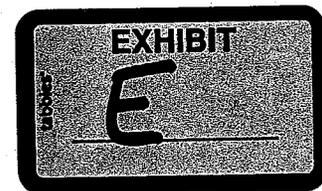
On October 21, 1993, the bank, thrift, and credit union regulatory agencies jointly issued the Interagency Advisory. Because this matter potentially affects many organizations, we would appreciate you distributing the Interagency Advisory to the domestic and foreign financial institutions supervised by the Federal Reserve in your District, as well as to the appropriate members of your Federal Reserve Bank's supervision and legal staffs.

It should be noted that the enforcement staffs of the supervisory agencies will, in the future, prepare and distribute similar Interagency Advisories concerning on-going questionable banking practices or illegal schemes whenever necessary to advise the banking community about such problems. These interagency alerts will be prepared and forwarded directly to the officers in charge of supervision at the Federal Reserve Banks for appropriate distribution to the banking organizations in their Districts and to their staffs.

In the event you have any questions concerning this matter, please contact Mr. Richard A. Small, Special Counsel, at (202) 452-5235, or me, at (202) 452-2620.

Herbert A. Biern
Deputy Associate Director

ATTACHMENT TRANSMITTED ELECTRONICALLY BELOW



Board of Governors of the Federal Reserve System

Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency
Office of Thrift Supervision

October 21, 1993

Interagency Advisory

**WARNING CONCERNING "PRIME BANK"
NOTES, GUARANTEES, AND LETTERS OF CREDIT
AND SIMILAR FINANCIAL INSTRUMENTS**

The enforcement staffs of the federal financial institutions supervisory agencies, who work with federal law enforcement officials responsible for investigating and prosecuting bank fraud-related matters, have noted an increase in the use, or attempted use, of questionable financial instruments in connection with complex, and possibly illegal, schemes. Many of these schemes have been aimed at defrauding borrowers and investors in the United States and abroad, as well as domestic and foreign banks. The questionable instruments are often denominated as "Prime Bank Notes", "Prime Bank Guarantees", or "Prime Bank Letters of Credit". They are also called by such other names as "Prime European Bank Letters of Credit", "Prime World Bank Debentures", or "Prime Insurance Guarantees".¹

Over the past several years, federal and state law enforcement authorities have prosecuted, or are presently in the process of investigating, wrongdoers who have defrauded individuals and entities by promising, for example, to arrange loans that would be funded in some manner by "Prime Bank"-types of financial instruments, or would, in some other way, involve such instruments and advance loan fee payments. Many of the illegal or dubious schemes that have been brought to the attention of various regulatory agencies by law enforcement officials, foreign banks, the World Bank, and central banking authorities appear to involve overly complex loan funding mechanisms necessitating the use of "Prime Bank"-type documents. Other suspicious schemes involve "investments" in "Prime Bank"-type financial instruments and promises of unrealistic returns on multi-million dollar investments. In many recent situations, the agencies have been advised that individuals have been improperly using the names of large, well-known domestic and foreign banks, the World Bank, and central banks in connection with their "Prime Bank" schemes. When contacted by potential borrowers, investors or regulators, the institutions had no knowledge about the unauthorized use of their names or the issuance of anything akin to "Prime Bank"-type financial instruments.

Because the staffs of the federal bank, thrift and credit union regulatory agencies are not aware of any legitimate use of any financial instrument called a "Prime Bank" note, guarantee, letter of credit, debenture, or similar type of financial instrument, you should be alert to the potential dangers associated with any transaction involving these types of instruments.² Likewise, you should be attentive to the attempted use of any traditional type of financial instrument--such as a standby, performance or commercial letter of credit--that is somehow referred to in an unconventional manner, such as a letter of credit

referencing forms allegedly produced or approved by the International Chamber of Commerce. Examples of these include bogus schemes involving the supposed issuance of an "ICC 3034" or an "ICC 3039" letter of credit by a domestic or foreign bank.

The staffs of the regulatory agencies, in cooperation with the Department of Justice, the Federal Bureau of Investigation, the U.S. Secret Service, and the Securities and Exchange Commission, want to alert you to this situation and request that, in the event you become aware of any transaction involving any of the aforementioned types of financial instruments, you advise one of the following federal regulatory agency officials:

Board of Governors of the
Federal Reserve System
Deputy Associate Director
Enforcement and Special
Investigations Sections
Division of Banking Supervision
and Regulation
Mail Stop 175
Washington, D.C. 20551
(202) 452-2620
(202) 736-5641 (fax)

National Credit Union
Administration
Office of the General Counsel
1775 Duke Street
Alexandria, Virginia 22314
(703) 518-6540
(703) 518-6569 (fax)

Federal Deposit Insurance
Corporation
Chief
Special Activities Section
Division of Supervision
550 17th Street, N.W.
Washington, D.C. 20429
(202) 898-6750
(202) 898-3627 (fax)

Office of the Comptroller of the
Currency
Law Department
Enforcement and Compliance
Director
250 E. Street, S.W.
Washington, D.C. 20219
(202) 874-4800
(202) 874-5301 (fax)

Office of Thrift Supervision
Deputy Director for Regional
Operations
1700 C Street, N.W.
Washington, D.C. 20552
(202) 906-6853
(202) 898-0230 (fax)

Also, if you suspect that a criminal offense is being committed, it is required that you promptly make a criminal referral to the appropriate federal law enforcement agencies in accordance with applicable criminal referral regulations.

Footnotes

1. These and similar financial instruments were the subject of prior regulatory agency alerts issued by the Office of the Comptroller of the Currency. These included the Office of the Comptroller of the Currency's Banking Circular BC-141, Supplement 2, dated July 14, 1982, several subsequent supplements to BC-141, and BC-243, dated February 7, 1990. Return to

text

2. There are currently six insured depository institutions with the word "Prime" in their names in the United States. Two of them are commercial banks that operate in Florida, one is a commercial bank in Connecticut, another is a commercial bank in Indiana, and two of them are thrift associations operating in Wisconsin and Pennsylvania, respectively. There is also one bank holding company in Illinois with the word "Prime" in its name. This alert is not associated with any deposit or other type of legitimate debt obligation or financial instrument issued by any of these financial institutions. [Return to text](#)

[SR letters](#) | [1993](#)

[Home](#) | [Banking information and regulation](#)

[Accessibility](#) | [Contact Us](#)

Last update: July 26, 2001

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities
ex rel. Irving L. Faught,
Administrator,
Plaintiff,

v.
Sunset Financial Group, Inc., *et al.*
Defendants.

CJ-2003-7899

Case No: _____

Emzie Huletty Jr.
6214 Diane Drive
Oklahoma City, OK 73118

SUMMONS

To the above-named Defendant:

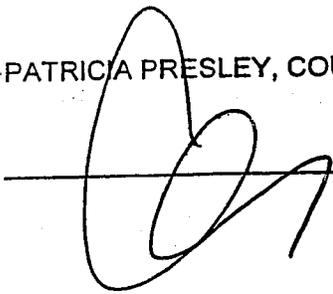
You have been sued by the above-named plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 19 day of September, 2003.

PATRICIA PRESLEY, COURT CLERK

(Seal)

By: _____


Attorney(s) for Plaintiff(s)
Name: Patricia A. Labarthe, OBA #10391
Address: First National Center, Suite 860
120 N. Robinson
Oklahoma City, OK 73102
Telephone: 405.280.7700

This summons was served on _____
(date of service)

Signature of person serving summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

EXHIBIT "B"

COPY

SHERIFF'S RETURN

STATE OF OKLAHOMA)
)
OKLAHOMA COUNTY)

Civil Case # CJ-03-7899

Personal Service:

I received this Writ this 19 day of SEPT. 2003 this time 338PM and executed the same on the 19 day of SEPT. 2003 this time 415PM by serving personally EMZIE HULETTY - 6412 N. Santa Fe, Ste B-2

** Huletty denied any documentation related to businesses involved, at his private residence (6214 Diane Drive).*

Residential Service:

I received this Writ this ___ day of ___ 2 this time ___ and executed the same on the ___ day of ___ 2 this time ___ by serving ___
By leaving with ___, relation ___ at usual place of abode.

Corporation Service:

I received this Writ this ___ day of ___ 2 this time ___ and executed the same on the ___ day of ___ 2 this time ___ as follows, to wit: ___
a corporation, by delivering to ___
he/she being ___ of said corporation.

No service:

I received this Writ this ___ day of ___ 2 this time ___. The following persons or corporations within named not found in said county: ___
this time ___, this ___ day of ___ 2

Property/Person seized:

Within described was seized by the Oklahoma County Sheriff's Office on ___ day of ___ 2 this time ___ and placed with ___
on same day.

Subscribed and sworn to before me this ___ day of ___ 2
My commission expires _____

Notary Public, State of Okla.

Sheriff fee's \$0.⁰⁰

JOHN WHEISEL, SHERIFF

By [Signature]
Deputy Sheriff

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities
ex rel. Irving L. Faught,
Administrator,)
Plaintiff,)

v.)
Sunset Financial Group, Inc., *et al.*)
Defendants.)

CJ-2003-7899

Case No: ~~FILED IN THE DISTRICT COURT~~
OKLAHOMA COUNTY, OKLA.

OCT 22 2003

PATRICIA PRESLEY, COURT CLERK
by _____
Deputy

Emzie Huletty Jr.
6214 Diane Drive
Oklahoma City, OK 73118

SUMMONS

To the above-named Defendant:

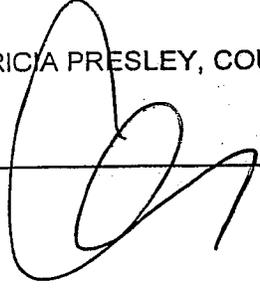
You have been sued by the above-named plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 19 day of September, 2003.

PATRICIA PRESLEY, COURT CLERK

(Seal)

By: 

Attorney(s) for Plaintiff(s)
Name: Patricia A. Labarthe, OBA #10391
Address: First National Center, Suite 860
120 N. Robinson
Oklahoma City, OK 73102
Telephone: 405.280.7700

This summons was served on _____
(date of service)

Signature of person serving summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

EXHIBIT "C"

RETURN OF SERVICE BY SHERIFF
PERSONAL SERVICE

No. _____

I certify that I received the foregoing summons on the _____ day of _____, 2003, and that I delivered a copy of said summons with a copy of the petition attached to each of the following named defendants personally in _____ County at the address and on the date set forth opposite each name, to wit:

Name of Defendant	Address	Date of Service
_____	_____	_____

USUAL PLACE OF RESIDENCE

I certify that I received the foregoing summons on the _____ day of _____, 2003, and that on _____, I served _____ by leaving a copy of said summons with a copy of the petition attached at _____ which is his usual place of residence with _____, a member of his family fifteen (15) years of age or older.

CORPORATION RETURN

Received this summons this I certify that I received the foregoing summons on the _____ day of _____, 2003, and as commanded therein, I summoned the within _____ named defendant, as follows, to wit: _____

_____ a corporation, on the _____ day of _____, 2003 by delivering a true and correct copy of the within summons hereof with endorsements thereon and a copy of the petition, to _____, he being the _____ of said corporation, and the _____ President, Vice-President, Secretary, Treasurer or other chief officer not being found in said county.

NOT FOUND

Received this summons this _____ day of _____, 2003, I certify that the following persons of the defendant _____ within named not found in county: _____

FEES

Fee for service \$ _____, Mileage \$ _____, Total \$ _____

Dated this _____ day of _____, 2003.

By: _____, Sheriff
_____ Deputy

County, Oklahoma

CERTIFICATE OF SERVICE BY MAIL

I certify that I mailed copies of the foregoing summons with a copy of the petition attached to the following named defendants at the address shown by certified mail, addressee only, return receipt requested, on the 19th day of September, 2003, and receipt thereof on the dates shown:

Defendant	Address Where Served	Date Received
Emzie Huletty Jr.	6214 Diane Drive Oklahoma City, OK 73118	September 20, 2003

(SEAL)

Brenda London Smith

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RESTRICTED DELIVERY

Emzie Huletty Jr.
6214 Diane Drive
Oklahoma City, OK 73118

Pet-Summ, 02-160-PAL

2. Article Number (Copy from service label)

7000 0520 0023 1185 1164

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

9-20-03

C. Signature

X

[Signature]

Agent

Addressee

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

RESTRICTED DELIVERY

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

In The Superior Court of Oklahoma
State of Oklahoma

Emzie Huletty,
Petitioner,

CJ-2004-3664

v.

Case No. _____

Oklahoma Department of
Securities ex rel. Irving L. Faught,
Administrator,
Patricia A. LaBarthe, O.B.A. # 10391,
Mark B. Toffoli, O.B.A. #9045,
Melanie Hall, John K. Ulrey,
Kenneth G. Maillard, State of Oklahoma, ex rel.
Donald K. Hardin, Administrator of the Department
of Consumer Credit, Wynn Holbrook, Lisa G. Bays,
et al., Sidney Barrett,
Respondents.

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

APR 30 2004

PATRICIA PRESLEY, COURT CLERK
by _____

Petition For Writ Of Habeas Corpus Deputy

Petitioner Emzie Huletty an individual hereby complains of racial discrimination, illegal state conduct, tortuous interference with business relations and other civil rights violations by all named defendants. All actions taken against petitioner including the citation of indirect criminal contempt against Emzie Huletty, the temporary restraining order issued by Judge Carolyn R. Ricks, the Petition for Permanent Injunction and Other Equitable Relief, Oklahoma Department of Securities ex rel. Irving L. Faught's Application For Temporary Restraining Order, Asset Freeze, Accounting, and Temporary Injunction and Brief In Support. The petitioner alleges and states:

1. Beginning in 1997, these agencies and individuals brought false allegations against Emzie Huletty and Truth Financial Services, Inc.

2. The State of Oklahoma has produced no evidence supporting the need to pierce the veil of the various corporations, so that petitioner would incur any liability, including criminal penalties.
3. There exists no evidence to support the state's allegation that petitioner knowingly, willfully, and contemptuously disobeyed and violated this Court's lawfully issued Temporary Restraining Order, Order Appointing Receiver, Order Freezing Assets and Order For Accounting ("Temporary Order").
4. Petitioner has never engaged in offering or selling any security in and/or from this state; did not transact business in this state as a broker-dealer or agent unless appropriately registered under the Act;
5. Petitioner did not directly or indirectly, make any untrue statements of material fact or omitting to state material facts necessary in order to make statements made, in light of the circumstances under which they are made, not misleading, in connection with the offer, sale, and/or purchase of securities in and/or from this state;
6. Petitioner did not directly or indirectly, engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and unlawfully distributing sales literature in and/or from this state;

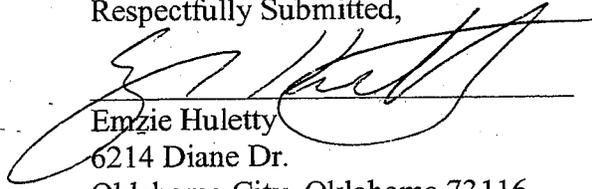
7. The temporary order was issued in violation of the United States Constitution, and the Petitioner's Civil Rights. The statute the court used to issue the order was unconstitutionally applied to the petitioner, because of his race;
8. State officials misled the court to compel production of property, when they falsely alleged that the 2001 Dodge Durango was an asset of Vision Services, Inc., and not a personal asset of Huletty. Petitioner did not fail to deliver his vehicle to the state.
9. Huletty did not continue to offer and sell securities in the nature of promissory notes to Investors. Petitioner has never transacted business as a broker-dealer or agent by offering and selling securities in the nature of promissory notes to Investors. Huletty never promised large returns to the Investors at the end of five (5) years. There were no fees assessed to the investors, contrary to the state's false accusations. These actions can only be attributed to Rebates, International, not Emzie Huletty. There is no evidence that the petitioner, Sunset Financial Group, Inc., Ease Corporation, or Vision Services, Inc. has committed any wrongdoing.
10. Nothing contained in the foregoing Application for citation of Indirect criminal contempt against petitioner constitutes violations of this Court's Temporary Order and Order Compelling Production of Property and does not constitute indirect contempt of the Court.

11. Petitioner shows illegal restraint by the State of Oklahoma. Illegal Search and Seizure by these state officials. Libel and Slander against the petitioner by these named defendants. These state actions are in violation of the United States Constitution.

Wherefore, the petitioner requests this Court grant him a Writ of Habeas Corpus, or in the alternative, conduct an evidentiary hearing during the pendency of these proceedings. That the District Court be restrained from requiring a cash bond, if the petitioner requests a constitutionally afforded jury trial.

This is the 26 day of APRIL, 2004.

Respectfully Submitted,



Emzie Huletty
6214 Diane Dr.
Oklahoma City, Oklahoma 73116
(405) 210-8020

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of April 2004, a true and correct copy of the foregoing Petition For A Writ Of Habeas Corpus was mailed by first class mail with postage prepaid thereon addressed to:

Ms. Patricia A. LaBarthe
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102

Win Holbrook
Holbrook & Toffoli
120 North Robinson, Suite 2200
Oklahoma City, Oklahoma 73102

P. David Newsome, Jr., Esquire
Conner & Winters
3700 First Place Tower
15 East Fifth Street
Tulsa, Oklahoma 74103

Terry D. Kordeleski, II, Esquire
Riggs, Abney, Neal, Turpen, Orbison & Lewis
5801 Broadway Extension
The Paragon Building, Suite 101
Oklahoma City, Oklahoma 73118

Lisa G. Bays
ASSISTANT ATTORNEY GENERAL
Department of Consumer Credit
4545 N. Lincoln Blvd., Suite 104
Oklahoma City, Oklahoma 73105

Donald K. Hardin
Administrator
Department of Consumer Credit
4545 N. Lincoln Blvd., Suite 104
Oklahoma City, Oklahoma 73105

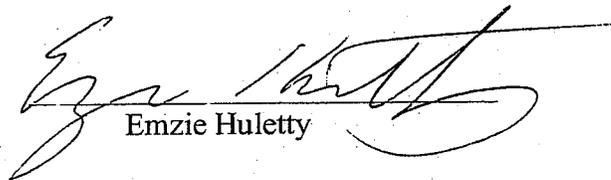
Irving L. Faight
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102

The Honorable Carolyn R. Ricks
Oklahoma County District Court Judge
Oklahoma County Courthouse
320 Robert S. Kerr Ave.
Oklahoma City, Oklahoma 73102

John K. Ulrey, Director of Licensing
of The Oklahoma Department of
Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102

Kenneth G. Maillard
Director of Registrations
Oklahoma Department of Securities
First National Center
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102

Sidney Barrett
Department of Consumer Credit
4545 N. Lincoln Blvd., Suite 104
Oklahoma City, Oklahoma 73105



Emzie Huletty