

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

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

v. )

Case No. CJ-03-7899

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.

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

DEC 24 2003

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_ Deputy

**OBJECTION TO MOTION TO SET ASIDE DEFAULT JUDGMENT**

Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator (“Administrator”), respectfully objects to Defendant Donald J. Wood’s Motion to Set Aside Default Judgment for the following reasons:

1. On September 19, 2003, the Oklahoma County Sheriff personally served a Summons; Petition for Permanent Injunction and Other Equitable Relief (“Petition”); Application for Temporary Restraining Order, Asset Freeze, Accounting, and Temporary Injunction and Brief in Support; and Temporary Restraining Order, Order Appointing Receiver,

Order Freezing Assets and Order for Accounting on Defendant Donald J. Wood ("Wood"). The Petition alleged Defendant Wood, as an individual, violated the registration and anti-fraud provisions of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (West 2003), through a prime bank scheme.

2. On October 10, 2003, an Entry of Appearance was filed by M. Michael Arnett and an Entry of Appearance was filed by L. Justin Lowe, both of the Arnett Law Office, as attorneys for Defendant Emzie Huletty.

3. On November 10, 2003, this Court found that Defendant Wood had been validly served with the Petition and Summons, that no appearance had been made by Defendant Wood within the time allowed, and that no motion or pleading had been filed by Defendant Wood. This Court issued a Default Judgment against Donald J. Wood enjoining him from violations of the Act, ordering restitution to investors who purchased securities and imposing a civil penalty of Ten Thousand Dollars (\$10,000.00).

4. On December 10, 2003, a Motion to Set Aside Default Judgment ("Motion") and an Entry of Appearance was filed for Defendant Wood by Mr. Lowe. A copy of the Motion and Entry of Appearance were received by Plaintiff on December 15, 2003. Mr. Arnett has not filed an Entry of Appearance for Defendant Wood. An entry of appearance has not been filed by either Mr. Arnett or Mr. Lowe for EASE Corporation or any other Defendant in this case.

**NO ENTRY OF APPEARANCE HAS BEEN FILED  
ON BEHALF OF DEFENDANT EASE CORPORATION**

At the time Plaintiff filed its Petition, Defendant Wood was President of Defendant EASE Corporation. The basis on which Defendant Wood seeks to set aside the judgment entered against him is that EASE Corporation had hired Mr. Arnett and Mr. Lowe to represent the corporation and that as a result, Defendant Wood believed he was relieved of the need for

individual representation in this case or of the need to personally answer the Petition. However, there has been no entry of appearance or other responsive pleading filed on behalf of EASE Corporation by anyone. There is nothing in the record to suggest that the corporation for which Defendant Wood serves as President was represented by counsel. Certainly, if Defendant Wood sought representation for his corporation, there would have been some filing on its behalf, and the attorney representing the corporation would have advised Defendant Wood that he faced individual liability as well.

The Petition and all other pleadings served on Defendant Wood clearly establish that he is named individually as a Defendant. Further, the Summons, individually addressed to and served on Defendant Wood, states:

“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.”

The basis for Defendant Wood’s argument that his default judgment be set aside is without merit. The facts indicate that the corporation is not represented by counsel in this matter. Defendant Wood should not be permitted to hide behind his negligence in failing to answer the allegations against him. The negligence of a party is no ground for vacating a judgment. *Board of Commissioners of Oklahoma County v. Barber Asphalt Paving Co.*, 200 P. 990 (1921). Defendant Wood should not be permitted to offer a feeble excuse to this Court for ignoring his responsibility to answer a lawsuit directed to him individually.

**DEFENDANT WOOD HAS ALLEGED NO GROUNDS  
ON WHICH TO VACATE THE DEFAULT JUDGMENT**

None of the grounds prescribed by Oklahoma law to vacate a default judgment have been cited by Defendant Wood. See Okla. Stat. tit. 12, §1031. Further, there do not appear to be any grounds available to Defendant Wood from the statutory list. Defendant Wood only asserts the corporate defense described above and shows no grounds, including unavoidable casualty or misfortune, that prevented him from defending. In a proceeding to vacate a default judgment on the ground of unavoidable casualty and misfortune, Defendant Wood must be free from any negligence in allowing such default to be taken and must show that no reasonable or proper diligence or care could have prevented the judgment. *Sabin v. Sunset Gardens Co.*, 85 P. 2d 294 (Okla. 1938).

**CONCLUSION**

The Department respectfully requests that this Court deny the motion of Defendant Wood to vacate the default judgment against him for the reasons stated above.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this ~~24th~~ day of December, 2003, a true and correct copy of the Plaintiff's Objection to Motion to Set Aside Default Judgment was mailed by first class mail, with postage pre-paid thereon to the following:

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