

UNITED STATES DISTRICT COURT
for the WESTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION)	
(“SEC”))	
)	No.97-CV-2257
VS)	
)	
)	
JOHN GARDNER BLACK (“Black”))	

MOTION TO SET ASIDE

NOW COMES John G. Black and his motion requesting this court to set aside its orders in the above captioned case pursuant to the Federal Rule of Civil Procedure, Rule 60 (b)(3). This court lacks subject matter jurisdiction in this case because no complaint has been filed upon which relief may be granted because of conflicts between federal regulations. The filing made by the SEC on September 26, 1997, was made with the intention of defrauding the court and Black and contained significant misrepresentation of facts including a failure to disclose that Black’s business practices were in compliance with and controlled by published Internal Revenue Service Regulations. In support of this motion, Black states:

- 1.) This court determined on May 9, 2001 that the Collateralized Investment Agreement (“CIA”) which was owned by the customers of Black and his companies was an investment contract security. If the court had not

determined the CIA to be a security, the SEC lacked jurisdiction to introduce their complaint.

- 2.) This court informed Black by way of court order on December 13, 2005, that litigation concerning the market value of the CIA had been conducted. That litigation was conducted without the participation of either Black or his attorney. [Exhibit A]
- 3.) The results of that litigation, while not made available to the public, should have shown that: (1) the market value of the CIA was determined by federal regulation to be \$233 million [26 USC § 1.148-5]; (2) the open market value of the CIA, not disputed by the government, was in excess of \$269 million; and (3) neither this court nor the SEC has the jurisdiction to unilaterally change that market value nor fail to comply with published federal regulations.
- 4.) The complaint filed by the SEC failed to disclose to the court that all transactions conducted in the CIA were done at market value; that the market value of the CIA was never misrepresented to its owners; that the market value was controlled by federal regulation; and that the market value, pursuant to federal regulation, must be determined by a reasonable expectation of profits in an ongoing enterprise, rather than as an enterprise in liquidation.

The SEC, by failing to disclose the federally regulated market value of the CIA to this court and to the public has committed a form of securities fraud for failure to disclose

a material fact. The SEC has introduced a complaint while failing to disclose material information about the CIA and this court has granted numerous orders while precluding Black's participation in the litigation.

Therefore, Black requests that this court set aside its orders in this case because it lacks subject matter jurisdiction to enter an order which violates federal regulation and because the complaint filed by the SEC was fraudulent and misleading, grounds required for Relief from Judgment pursuant to FRCP 60(b)(3).

December 9, 2006

John G. Black