

THE ENTREPRENEUR LIFE OF  
THOMAS CASEY

# JUSTICE





**1980** – Tom moves to Scottsdale and purchases a home designed by the Frank Lloyd Wright Foundation, then marries Catherine Oyen. Tom places 1/3 of his estate, including his Frank Lloyd Wright Foundation designed home into community property, on the condition the marriage lasts at least five years.

**1985** – Catherine files for divorce. Tom transfers 1/3 of his assets in ten days. Catherine refuses any “worthless” Audre stock, taking a higher percentage of cash by forcing the sale of the FLW home.

**1987** – Catherine sues in marital court for 1/3 of Tom’s stock ownership in Audre, then named Audre Recognition Systems, and loses.

**1993** - John Karpovich approaches Tom for a bribe and is refused, then vowing to destroy the company. Tom turns Karpovich into the Defense Investigative Service and confronts Karpovich and his boss, Deputy Undersecretary of Defense, former Major General James Klugh, in Chairman Hunter’s office. Tom is approached separately by Lewis and Cunningham for bribes in obtaining their help to obtain more appropriations, refusing both.

**1994** – Kyle “Dusty” Foggo, a CIA agent and friend of Brent Wilkes, honey-traps, and tapes Karpovich to admitting that he was attempting to bribe Tom and was undermining Audre due to his refusal. Wilkes plays the tape for Tom, proclaiming that “*we now own his ass*”. Tom refuses the tape, turns Foggo into the FBI, and fires Wilkes.

Wilkes assumes domestic control over a German competitor, ADCS (Automated Document Conversion Systems), and then uses Foggo’s tape to threaten Karpovich with the loss of his position and pension to win ADMAPS contracts from Audre.

Vanity Fair would later publish an article on Foggo what included an off-the-record interview with Tom where he shared some of Foggo’s unconscionable and unsavory sexual predilections. While very compromising to Tom, the reporter later told him was just too character-revealing to leave out.

**1995** – February 2nd, Catherine sues Tom for a third time, bringing the case before an inexperienced and financially biased judge, who before his appointment was a public defender. After making statements in court that no one should be so powerful or wealthy, Tom is forced by the court to pay her attorney, Robert Nachshin, \$3 million for his first year of representing her. Catherine is then awarded to her original settlement, an additional \$11M and 2 million shares of Audre stock, comprising 1/3 of his assets at that time. The judge also deems Audre, a public company with 10K shareholders, Tom’s personal property and co-joins Audre to his divorce decree, while simultaneously freezing all of Tom’s assets to prevent him from posting bond, thereby forcing both Tom and Audre to file for bankruptcy protection.

Audre’s stock tanks and it is removed from NASDAQ OTC onto the ‘Pink Sheets’.

Tom uses bankruptcy in lieu of posting a bond, and once bonded, dismisses his Chapter 11 filing. Audre remains in bankruptcy. The bond then allows Tom to appeal the divorce court ruling, forcing Catherine, with Nachshin now resigned, to ‘syndicate’ her defense by literally selling shares in any eventual recovery to Tom’s business enemies, most notoriously Steven Sanford and Steve Greenberg, who operated a company called Anametrics, which was located above the Rainbow Room on the 67th floor of Rockefeller Center—an office known as Top of the Rock (far above the Radio City Music Hall where Tom’s Rockette friend had performed).



# CEO's divorce could cost Audre millions

By DONALD C. BAUDER  
Financial Editor

Audre Recognition Systems and its founder and chief executive, Thomas F. Casey, may have to pay \$11 million and two million common shares to Casey's ex-wife as the result of an impending Orange County divorce decision.

Orange County Superior Court issued a statement of intended decision holding Casey and the company jointly and severally liable for \$8 million in actual damages and \$3 million for Catherine Casey's attorney fees.

A spokesman for San Diego-based Audre said Thomas Casey "is disappointed and believes the judgment is excessive, and he intends to vigorously appeal to protect his interests and those of the Audre shareholders. He regrets that

shareholders were brought into his matrimonial problems."

Part of the 10-year-old divorce suit hinges on contested stock ownership. A major issue is the value of the company, a development-stage enterprise that develops and designs products for converting engineering drawings to computer formats. The company was added as a defendant in March 1993.

The company said Catherine Casey's lawyers and Audre are negotiating a settlement before the court makes a final ruling.

Audre stock closed yesterday at 75 cents per share, unchanged. It dropped almost 54 percent last year. The stock reached \$5.25 in 1991.

Since year-end 1990, the number of outstanding shares has ballooned from 26.4 million to around 60 mil-

lion. The company has lost money steadily in the last several years.

"Although the company has received some orders from the Department of Defense, these have never been of the size to establish a sustainable profit trend," said David N. Allen of Torrey Pines Securities. "The company has been quite promotional in issuing a large volume of stock over the last several years."

Any payment resulting from the divorce suit "can only put further stress on the financial position of the company," said Allen. A stock payout would lead to even more dilution of the shareholders' position, he said.

Bloomberg Business News and Dow Jones New Service contributed to this report.



**Thomas F. Casey:**  
*Executive vows to appeal decision expected from Orange County court.*

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## Catherine's casualty

IN 1983 THOMAS CASEY came on as chief executive officer of Audre Recognition Systems, a San Diego-based image-scanning software startup. Two years later his wife, Catherine, filed for divorce. In the settlement, she was offered both cash and stock in the public company. The stock not being worth much, she chose to go with a cash-heavy settlement.

But eight years later her ex-husband's company was thriving—its sales almost tripling between 1992 and 1993, to \$2.38 million, and its future bright. Catherine Casey sued again, naming Audre Recognition Systems as codefendant.

The Orange County Superior Court judge assigned to the case held for Catherine and, last September, awarded her more than \$11 million and 2 million shares worth of Audre stock.

Although Tom Casey complains that the judge failed to recognize the difference between a public and a private company, the company now needed to put up an \$18 million bond—one-and-a-half times the estimated value of the judgment as mandated by California law—in order to stop Catherine from collecting. That was more than the company could come up with.

A few days after the decision, Audre filed for bankruptcy—in large part to dodge the settlement. And in January Casey was removed as chief executive. Audre has been trying to reorganize under Chapter 11 for nearly a year. ■

Forbes ■ September 23, 1996

Starting in 1996, Wilkes, his firms, employees, and family members donated more than \$600,000 to federal lawmakers and their political action committees. In all, Wilkes spent at least \$1.1 million on lobbying and bribes.

1997 - Tom, with written support from Gordon England, Deputy Secretary of Defense, Chairman Hunter, and then the creditor's committees, is reappointed by bankruptcy judge Peter Bowie back into the CEO & Chairman's positions at Audre, thereby adverting a government trustee's attempt to liquidate the company. Tom then turns in Cunningham, who had produced a "bribe menu", Foggo, and then House Appropriations Chairman Lewis to the FBI, in what would become the largest scandal in congressional history. It took so long to wind through, nine years, that when US Attorney Carol Lam finally brought charges, Tom's original evidence was barred by the statute of limitations. Charlie Wilson, previously a 'friend' of Tom's, informed him that his support on the Defense Appropriations Committee was withdrawn. On November 14, 1997, the Marshal for the Family Law Court of Orange County serves Tom and Audre with a \$15,430,093.15 garnishment of his salary.

<p><b>TO THE EMPLOYER:</b> (Name and address of employer)</p> <p>AUDRE RECOGNITION SYSTEMS, INC 220 W 2ND AVE ESCONDIDO CA 92025-4104</p>	<p><b>EMPLOYER:</b> For your records, enter the date you received this order by personal delivery, or the date the mail receipt was signed _____</p>
<p><b>ATTENTION: PAYROLL</b> Name and address of employee</p> <p>THOMAS F CASEY 910 RAINBOW CREST RD RAINBOW CA 92028 SOCIAL SECURITY NUMBER: _____</p>	<p><b>EMPLOYEE:</b> Keep your copy of this legal paper.</p> <p><b>EMPLEADO:</b> Guarde este papel oficial.</p>

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on reverse of this form). Pay the withheld sums to the levying officer (name and address above). If the employee works for you now, you must give the employee a copy of this order and the Employee Instructions within 10 days after receiving this order. Complete both copies of the form Employer's Return and mail them to the levying officer within 15 days after receiving this order, whether or not the employee works for you. (Do not delay to include with remittance.)

2. The total amount due is \$ **15430093.05** ADD \$5.00 TO AMT DUE EACH TIME YOU REMIT

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the tenth day, do not withhold earnings payable for that pay period. Do withhold from earnings that are payable for the pay period ending on or after that tenth day. Continue withholding for all pay periods until you withhold the amount due, plus the levying officer's assessment. Do not withhold more than the total amount due. Never withhold any earnings payable before the beginning of the earnings withholding period.

11/14/97

**1998** – In retaliation for his return to Audre, the SEC falsely sues Tom for “*Fraudulent Nondisclosures, Directed False Recordkeeping, and Made False Statements to Auditors*”, all charges brought to the SEC in 1997 by the then board of directors that had taken over Audre, in their failed attempt to prevent Tom’s return. Proof was provided in the case that in fact it was Tom who originally notified the SEC in an 8-K of his having paid back a company loan in-full, which the auditors had inadvertently omitted from the company’s 8-Q. At the time, the SEC accepted the 8-K, deeming the payback as “immaterial”. Tom receives bad legal advice and agrees to end the litigation by accepting a no fine, no restriction dismissal of the case by agreeing to a “Do not admit, do not deny” settlement that the SEC continues to unjustifiably claim to this day was an admission of guilt:  
<https://www.sec.gov/files/litigation/litreleases/lr15884.txt>

Also, in retaliation and without any notice, the IRS seized and set for auction within 28-days, Tom’s Rainbow ranch and all his properties in what they deemed a “*Jeopardy Assessment*” for taxes they had already been notified would be paid within 30-days when the fully documented sale of Tom’s 5-acre palm nursery in Rainbow closed. The seizure caused that sale to fall through, but a judge ordered a postponement of the auction of all the properties to allow Tom to find another

buyer for the nursery, which he did, albeit at a much lower sale price, thereby thwarting the IRS’s attacks.



**1999** – February 11th, Audre, then inadvisably renamed eXtr@ct due to the adverse publicity, became after five years of fighting, the first public company in the Southern District of California to reorganize in bankruptcy keeping 100% of its 10K of shareholders intact and undiluted (never been done before, as shareholders have no standing in court – only creditors).

That achievement first required Tom to sue Baker & McKenzie (then the world’s largest law firm), and Sheppard Mullin (over 1,000 attorneys across offices in North America, Europe and Asia), both Audre’s legal representatives, and Audre’s bankruptcy auditor, McGladrey Pullen (5th largest accounting firm), all for malpractice, winning all three cases in the elimination of their individual multi-million dollar billing ‘priority’ claims that were preventing the company from successfully reorganizing.

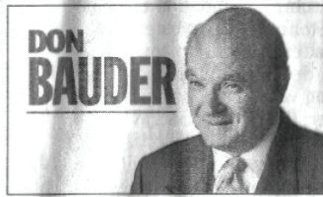


# Caseys' corporate soap opera likely ending

**S**an Diego's longest-running corporate soap opera may be drawing to a merciful close. Many episodes have been somewhat convoluted courtroom drama, but the final installments have had Wall Street panting lustily — at least up until yesterday, when the entire Street ran out of Viagra.

Last Thursday, a federal bankruptcy judge in Orange County approved the settlement between Katherine Casey and her ex-husband, Thomas F. Casey, and the company he founded.

Audre Recognition Systems, mak-



er of document conversion software, has been in Chapter 11 bankruptcy since 1995. That year, an Orange County divorce court decreed that Audre was jointly and severally liable for Katherine Casey's then-\$12

million-plus divorce judgment against Thomas Casey.

As the drama wore on, she filed for Chapter 7 bankruptcy, and last week, the Orange County bankruptcy judge approved a settlement in which she would get \$175,000 and four million shares of Audre stock. By that time, with interest, her claim had grown to \$15 million.

The couple separated in 1985 and divorced in 1987. Then came the court donnybrooks.

In essence, last week's agreement on a settlement means that Audre should be able to wrap up its Chap-

ter 11. The settlement "removes all claims that she had against the company," says Thomas Casey.

There is a hearing Feb. 11 in Bankruptcy Court before Bankruptcy Judge Peter W. Bowie.

See **BAUDER** on Page C-6

In July 1999, Cunningham demands that the Defense Department shift money from Audre's program to Wilke's company, ADCS. The Pentagon initially refuses to cooperate because Army officials in the field prefer Audre's rival system. A week later, Cunningham and Lewis called a Washington news conference to announce that they had slashed \$2 billion in funding for the F-22 Raptor fighter jet, one of the Pentagon's prized programs.

Within days, Deputy Secretary of Defense, Gordon England, called Tom to say that they could no longer support Audre given the damage being done to the F-22 program. "It just wasn't worth putting our big programs at risk," a senior Pentagon official said on condition he not be identified:

*"Cozying Up to Power; Brent Wilkes' businesses grew along with his political ties", - Los Angeles Times. Authors: Peter Pae and Dan Morain. Date: May 8, 2006*

**2000** - With the resultant loss of all its \$100 Million in Pentagon contracts, Duncan Hunter, and the few other political friends of eXtr@ct established a series of small contracts with the Army Corps of Engineers, literally in a 'last-ditch' desperate attempt to keep the company viable.

**2001** - August 10th, Tom, first introduced to the Navaho Tribe while living in Scottsdale after becoming an acquaintance of former Department

of the Interior Secretary, Stewart Udall, enlists Native American reservations throughout the nation to work on eXtr@ct's Army Corps projects, as virtually every "fort", now a military installation, had its start suppressing the nearby natives.

**2005** - After five years of struggling, Audre (then eXtr@ct) is closed. A public company to the end, Tom mortgages his house to pay his employee's back-owed wages.

## CUNNINGHAM PLEADS GUILTY, RESIGNS FROM CONGRESS



**2006** - March 6th, Randy 'Duke' Cunningham gets sentenced to 8.3 years in prison.

<https://www.cbsnews.com/news/disgraced-rep-gets-8-years-in-prison/>

## House Appropriations chairman under fire

*Did Rep. Jerry Lewis use his powerful position to enrich a friend?*

By Aram Roston, Lisa Myers & the NBC Investigative Unit

updated 7:57 p.m. PT, Wed., June 7, 2006



**Lisa Myers**

Senior investigative  
correspondent

[. Profile](#)

WASHINGTON - You may not have heard of him, but Rep. Jerry Lewis, R-Calif., is one of the most powerful members of Congress, chairman of the House Appropriations Committee, which controls hundreds of billions of dollars.

Tom Casey, CEO of the now-defunct computer software company Audre Inc., has told federal investigators what he says happened in 1993 when he asked for Lewis' help in getting money for the Pentagon to test software that converted engineering documents to computer formats.

June 7th, Tom goes on the Evening News with Brian Williams in a NBC investigative Unit segment produced by Lisa Myers, to publicly call out the corruption of House Appropriation Chairman, Jerry Lewis.

**2007** – March 19th, President George W. Bush intervenes against the prosecution of Lewis by firing and replacing Carol Lam as US Attorney, thereby completely stopping all political corruption probes.

<https://www.latimes.com/archives/la-xpm-2007-mar-19-na-usattys19-story.html>

## Prosecutor's Firing Was Urged During Probe

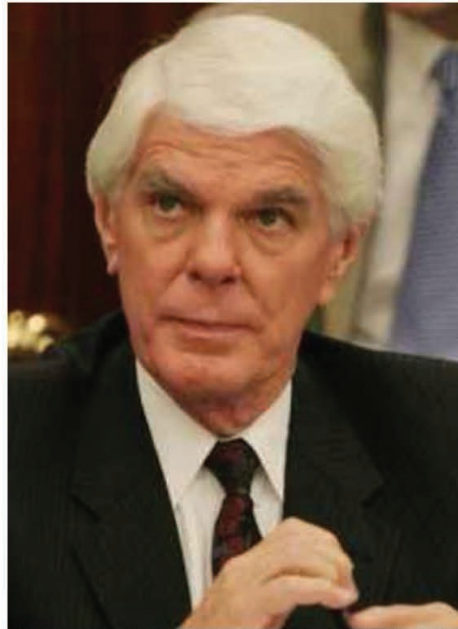
By Dan Eggen

Washington Post Staff Writer

Monday, March 19, 2007

The U.S. attorney in San Diego notified the Justice Department of search warrants in a Republican bribery scandal last May 10, one day before the attorney general's chief of staff warned the White House of a "real problem" with her, a Democratic senator said yesterday.

The prosecutor, Carol S. Lam, was dismissed seven months later as part of an effort by the Justice Department and the White House to fire eight U.S. attorneys.



Rep. Jerry Lewis , R-CA (Lauren V. Burke/WDCPIX.com)

Jerry Lewis, the corrupt head of the House Appropriations Committee. He's one of those GOP Congressmen who, like Denny Hastert, enrich themselves by buying land and then using earmarks to put Federal dollars to work to make the land more valuable, building a highway or interchange nearby. And, of course, such activities lead to investigations. But [Rep Lewis \(R-CA\) has the answer:](#)

House Appropriations chairman Jerry Lewis (R-CA) is under federal investigation for possible improprieties in how he oversaw Congress' spending of \$900 billion annually. Yesterday, we reported that Lewis had dropped nearly \$800,000 in legal fees to defend himself against the probe. This evening, *Congressional Quarterly* reports (*sub. req.*) that in a round of calls Monday evening, Lewis fired 60 investigators who had worked rooting out fraud, waste, and abuse, effective immediately.

Lewis' decision "has in fact stalled all of the investigations on the staff," said a former FBI agent, who asked not to be identified. "This eviscerates the investigatory function. There is little if any ability to do any oversight now." . . . "In effect, no investigative function is going to be done."

Lewis' spokesman, John Scofield, told CQ that such complaints were "sour grapes," and assured the publication that "there is nothing sinister going on."



**By Angelica Martinez**

UNION-TRIBUNE BREAKING NEWS TEAM

**12:58 p.m. February 19, 2008**

**SAN DIEGO –**

Brent Wilkes, the Poway defense contractor who federal prosecutors contend was the mastermind behind the largest congressional bribery scheme in history, was sentenced to 12 years in prison Tuesday.



HOWARD LIPIN / Union-Tribune

Brent Wilkes (left) arrives at court this morning with his attorney Mark Geragos.

**2008** – February 19th, Brent Wilkes, represented by Mark Geragos, gets sentenced to 12 years in prison. In March, the U.S. Attorney for the central district of California in Los Angeles reassigned the 17 lawyers in the public corruption unit investigating Lewis and disbanded it after Lewis had spent more than \$1 million defending the charges. Lewis then fires 60 FBI & congressional investigators who had worked rooting out fraud, waste, and abuse, effective immediately.

September 29th, Kyle 'Dusty' Foggo gets sentenced to 3 years in prison.

<https://www.nbcnews.com/id/wbna29413971>

**2009** – Catherine files for Chapter 7 liquidation, as does her syndicate partner, Sanford, losing in the process his Beverly Hills estate near Cher that he originally purchased from Jacqueline Bisset, to then move home with his parents in Florida, finally putting an end to 22.5 years of divorce litigation.

## **FORMER CIA EXECUTIVE PLEADS GUILTY TO DEFRAUDING GOVERNMENT**



**Foggo once held the third-highest position in the CIA.**





**2016** – Golden Genesis, Inc., is registered as a corporation in Nevada on March 31, 2016. On April 6th and without further consultation, never having reviewed GG’s business plan nor ever requesting GG provide a use of proceeds, Provident independent agent Retire Happy informs Tom that Provident Trust has accepted GG into their Alternate Asset Program.

Additionally, not only would Provident Trust, an experienced and sophisticated lender, be loaning GG money, but Provident would itself corporately provide the required security protection to their own loans with their own assets and bank accounts, in the event of GG’s default, therefore legally categorizing their promissory notes as loans, and not securities. Although surprised by their decision, Tom is informed by Retire Happy that this was not the only time Provident had secured its own loans to a borrower.

The terms of Provident’s promissory notes were not negotiable and although the standard multi-borrower loan form Provident provided included an option to pay both the loan principal and accrued interest at the end of the loan-term,

which would have been highly advantageous to GG’s cash flow as a start-up without current revenue, Provident did not offer that option to GG and instead, strictly required that upon receiving each loan, GG had to immediately commence payments of monthly lump-sum interest to Provident in Nevada.

At that time, Provident had approximately \$300 billion of retirement assets under management. In May, Tom receives an informal opinion from WilmerHale that secured promissory notes used to start and construct a business are not registerable securities. Tom accepts Provident’s terms. August 15, 2016, Beneficient Company buys Provident Trust.

Between April 6, 2016, and May 16, 2019, Provident Trust funded 238 loans to GG for a total of \$9.3 million dollars. Doing business as NuPlasma, GG’s center opens in Texas on November 17, 2017.

October 17, **2017**, Ascensus acquires Provident Trust.



**2020** - March 3rd, Tom is contacted by an investigator from the Missouri Securities Commission inquiring about promissory notes loaned to Provident from Missouri residents who were Provident clients. Tom cooperates fully, informing them that GG’s loans exclusively came from Provident, and had Nevada addresses.

On April 28th, Tom receives a “Target Letter” from

Missouri Secretary of State, John Ashcroft, addressed to GG, demanding a written response before May 12th to a list of questions, stating: *“The Missouri Securities Division has received information that indicates that the entity referenced above may have participated in conduct prohibited by the Missouri Securities Act of 2003.”*

Tom, not having been to Missouri in forty years, responds truthfully and in-full.

August 31st, the SEC starts demanding detailed banking and corporate information from GG, with their subpoenas to Wells Fargo resulting in the closure of all company and personal accounts, without notice. GG is then forced to spend three months opening an account and re-setting up all the company's autopay's at Chase Bank.

That same day, GG and Tom receive an *"Order to Cease and Desist and Order to Show Cause Why Civil Penalties, Restitution, Costs and Other Administrative Relief Should Not be Imposed by the Commissioner of Securities of the State of Missouri."*

**2021** – January 19th, GG and Tom were notified that Chase Bank was closing all company and personal accounts, as abruptly did American Express, obviously due to continuing subpoenas by the SEC. Tom had been an American Platinum card holder in good standing since 1976. The Missouri Securities Division's Cease & Desist hearing was held April 13th – 15th, to what can only be called a pre-orchestrated conclusion. Tom fruitlessly travels to Missouri's State Capitol, Jefferson City, to attend in-person the three-day session.

April 26th, Stone Point Capital, and Singapore's Sovereign Wealth Fund buy Ascensus, owner of Provident Trust.

June 30th, the Missouri Securities Commissioner finds GG, and Tom Casey guilty on all counts, ordering \$1.6 Million in restitution and penalties, finding them to have defrauded investors, many of them retired senior citizens, by selling unregistered, nonexempt, promissory notes.  
<https://www.kmmo.com/2021/07/06/1-6-million-sought-after-ponzi-scheme-defrauds-missouri-investors/>

July 15th, the SEC informs GG and Tom that it has made a preliminary determination to recommend that the Commission file an enforcement action against him and Golden Genesis.

December 9th, GG and Tom petitioned the Missouri Circuit Court for judicial review and stay of the Commissioner's Administrative Order.

**2022** – January 27th, Nevada, the jurisdiction of GG's promissory notes from Provident, rules on two cases against GG and Tom. A second judge rules in a similar case on December 19, 2022. Both Nevada judges determine that:

- A. This Court Has Already Ruled the Securities Law Does Not Apply.
- B. Defendant Is Not Responsible for the Damages Suffered, If Any.
- C. Defendant Golden Genesis Did Not Contact Plaintiffs, Retire Happy Did.
- D. Retire Happy—Not Defendant Golden Genesis—Drafted the Promissory Notes.
- E. Provident Trust Owns the Promissory Notes, Not Plaintiffs.
- F. Provident Trust Gave Plaintiffs a Security Interest.
- G. The Promissory Notes List Provident Trust's Corporate Office Address.
- H. The Promissory Notes Direct Defendant Golden Genesis to Make Monthly Payments to Provident Trust's Corporate Office.
- I. Defendant Thomas Casey Exclusively Acted Within His Responsibilities as a Corporate Officer, Not Individually, and Therefore Is Dismissed From Any Personal Liability.

On April 8, the Securities and Exchange Commission, ignoring the Nevada jurisdictional ruling, charges Golden Genesis and Tom Casey with deceiving investors in their sales of high-yield promissory notes aimed at retirees, by conducting an unregistered and fraudulent offering of securities, and that they misused and misappropriated investor funds to make Ponzi-like payments to prior investors.

<https://www.sec.gov/litigation/litreleases/lr-25359>

Of further disappointment to Tom and GG, the SEC sued them in San Diego's federal court, the location of Tom's personal residence and not Nevada, the state of the note's jurisdiction, GG's incorporation, Provident loan administration agent Retire Happy, and Provident.



June 8th, "Perjury Charges Filed Against Fraudster Accused of Misleading Missouri Securities Commissioner" — Secretary of State Jay Ashcroft files a class E felony charge of perjury against Golden Genesis, Inc. founder and CEO, Thomas F. Casey.

*"The Missouri Securities Division handles dozens of cases each year, many involving out-of-state scams and Ponzi schemes, that result in referrals for criminal charges related to fraud and financial exploitation. This case, however, marks the first time the division investigated and referred the criminal charge of perjury."*

<https://www.sos.mo.gov/default.aspx?PageID=10203>

Ordinarily, a very bone-chilling accusation, especially for an individual who has never been arrested for anything in his life, perjury as a result of sworn testimony is by definition documented in a transcript. It took all of five minutes to find numerous references within the official transcript that proved the perjury charges to be knowingly and absolutely false, having been entirely fabricated with the sole purpose of publishing a press release to further destroy Tom's personal reputation while GG and his appeal against the Commissioner was still before the Circuit Court.

On June 15, 2022, Tom and GG move to transfer venue of the SEC case from San Diego to the District of Nevada under Federal Rule of Civil Procedure, knowing that Federal Subpoena Rule 45 prohibits compelling witnesses if they reside or work more than 100 miles from the federal court, and prohibits compelling witnesses from another state. The SEC's selection of San Diego as the venue was intentional to prevent Tom or GG from forcing both Provident and Retire Happy to be witnesses. The Securities and Exchange Commission opposed the motion.

Missouri's prosecutorial misconduct then took another telling turn when Cole County scheduled their "Order To Show Cause" hearing on Tuesday, September 6th, the day after the Labor Day weekend, one of the busiest travel days of

the year, knowing Tom had to fly to Missouri from California.

On September 21, 2022, the United States District Court, Southern District of California denies Tom's and GG's motion to move the SEC case to Nevada, citing that the *"Moving Defendants have not carried their burden of establishing that transferring venue would allow the case to proceed more conveniently and better serve the interests of justice."*

Unfortunately, Missouri's nefarious plan was only slightly delayed due to Tom becoming documented with a case of Covid-19. Undeterred, Missouri then reset the hearing for Monday, November 28th, the day after the Thanksgiving weekend, the busiest travel day of the year.

Literally, the moment Missouri's prosecutor entered the Jefferson City courtroom, a space filled with orange-clothed and fully shackled prisoners awaiting their punishment, and seeing Tom was sitting there, he silently walked up to the Clerk of the Court and removed their case from the docket, thereby dismissing all charges, knowing their entire stunt to destroy Tom's reputation would be too discrediting to them had it actually been argued on the record before a judge.

While Missouri's determinedly dishonest efforts to obtain a default judgement against Tom for a failure to appear fell through, of course no press release of their withdrawal was issued and the damage to Tom's already destroyed reputation was done, remaining both in the public domain to this day, and as Tom would soon learn, still echoing within the halls of the Cole County Circuit Court.

**2023** – May 1st, the Missouri Circuit Court issues a scant two-page decision that simply determined *"The Commissioner's decision is affirmed in all respects."* Notice of an Appeal by GG and Tom is filed June 1st.



August 24th, the Manhattan Federal Court of Appeals affirms a lower court ruling in Kirschner v JP Morgan, which affirmed a 1990 SCOTUS decision that promissory notes such as those issued to GG by Provident are not securities regulated by states or the SEC, if they meet four conditions.

JP Morgan met three and their notes were deemed not to be securities. Provident, in loaning to GG, met all four.

<https://law.justia.com/cases/federal/appellate-courts/ca2/21-2726/21-2726-2023-08-24.html>

Neither the SEC nor Missouri acknowledge the Kirschner v JP Morgan federal rulings that affirmed thirty-three years of Supreme Court precedent that secured promissory notes from a sophisticated lender that were not offered to the public are not securities. Both the SEC and Missouri continue to prosecute their cases.

Provident, now sold four times since April 2016, refuses Tom's and GG's subpoenas for evidence and witness depositions.

November 6, 2023, Tom and GG file their Missouri appeal of Missouri's Securities Commissioner's and Circuit Court's rulings.