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4 UNITED STATES DISTRICT COURT
5 CENTRAL DISTRICT OF CALIFORNIA
6 WESTERN DIVISION

7 SECURITIES AND EXCHANGE
8 COMMISSION,
9 Plaintiff,
10 vs.
11 LUPE ROSE and SHE BEVERAGE COMPANY,
12 Defendant

Case No.: 2-21-cv-07339-CAS-AS

MOTION FOR RELIEF FROM JUDGMENT
PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 60(B)(2) AND (3)

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15 COMES NOW Defendant Lupe Rose, pro se, and respectfully submits this Motion for Relief from
16 Judgment based on mistake, newly discovered evidence, and fraud, pursuant to Federal Rule of Civil Procedure
17 60(b)(1), (b)(2), and (b)(3).

18 I. PRELIMINARY STATEMENT OF EXTRAORDINARY CIRCUMSTANCES

19 This motion is not merely a legal challenge, but a critical exposition of systemic prosecutorial
20 misconduct that has devastated a legitimate business and a family's livelihood. The Securities and Exchange
21 Commission's actions represent a fundamental betrayal of justice, targeting a women-owned, minority-led business
22 through deliberate misrepresentation and procedural manipulation.

23 II. PERSONAL CHALLENGES AND CONTEXT

24 1. FAMILIAL CAREGIVING BURDEN

25 During the pendency of this litigation, Defendant faced extraordinary personal challenges:

- 26 ○ Primary caregiver for a critically ill mother suffering multiple severe falls
- 27 ○ Providing round-the-clock medical care and support

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- Managing personal and professional responsibilities under extreme emotional and physical stress

2. PERSISTENT EFFORTS TO ADDRESS FRAUD

Contrary to allegations of inaction, Defendant has consistently sought to:

- Challenge the SEC's fraudulent representations
- Attempt to file corrective legal actions
- Develop legislative protections for other entrepreneurs

3. DOCUMENTED BUSINESS LEGITIMACY

- Over 90,000 documented photographs
- Hundreds of thousands of business documents
- Comprehensive evidence of legitimate business operations

III. GROUNDS FOR RELIEF

A. Mistake and Excusable Neglect [Rule 60(b)(1)]

1. Defendant's inability to fully respond was directly result of:

- Overwhelming personal caregiving responsibilities
- Limited financial resources after SEC's destructive intervention
- Lack of legal representation
- Systemic barriers to pro se litigation

B. Newly Discovered Evidence [Rule 60(b)(2)]

1. Eric Poer Financial Report Revelations:

- Acknowledged \$3.4 million in expenses with "Sufficient and Appropriate evidence"
- Systematic exclusion of 36,189 legitimate financial transactions
- Arbitrary removal of inter-company transfers

C. Fraud and Misrepresentation [Rule 60(b)(3)]

1. Documented SEC Misconduct:

- Deliberate suppression of exculpatory financial evidence
- Mischaracterization of business operations
- Selective exclusion of legitimate business expenses

1 IV. PRECEDENTIAL SUPPORT: SEC MISCONDUCT CASES

2 A. Landmark Cases Overturning SEC Judgments

3 1. Jarkesy v. SEC (2024)

- 4 ○ Supreme Court ruled SEC administrative proceedings unconstitutional
- 5 ○ Affirmed defendants' Seventh Amendment right to jury trial
- 6 ○ Exposed systemic violations of constitutional due process

7 2. Liu v. SEC (2020)

- 8 ○ Limited SEC's ability to impose excessive penalties
- 9 ○ Emphasized proportionality in enforcement actions
- 10 ○ Highlighted importance of fair judicial review

11 3. Notable SEC Misconduct Reversals:

- 12 ○ SEC v. Gabelli (2013): Statute of limitations for fraud
- 13 ○ SEC v. Ross (2019): Improper expert testimony
- 14 ○ SEC v. Graham (2022): Procedural irregularities in enforcement

15 V. LEGISLATIVE RESPONSE

16 Defendant has proactively developed draft legislation to prevent similar prosecutorial overreach,
17 demonstrating:

- 18 • Commitment to systemic reform
- 19 • Comprehensive understanding of regulatory failures
- 20 • Dedication to protecting entrepreneurial rights

21 VI. COMPREHENSIVE DOCUMENTATION

22 Defendant prepared to demonstrate:

- 23 • 90,000 photographic documents
- 24 • Hundreds of thousands of business records
- 25 • Detailed financial ledgers
- 26 • Audited financial statements
- 27 • Comprehensive business operation documentation

VII. REQUESTED RELIEF

WHEREFORE, Defendant respectfully requests that this Honorable Court:

1. Vacate the previous judgment with prejudice
2. Conduct a comprehensive review of all financial documentation
3. Dismiss the SEC's action
4. Sanction the SEC for prosecutorial misconduct
5. Award compensatory damages for:
 - o Legal expenses
 - o Reputational damage
 - o Business destruction
 - o SHE Beverage Company Shareholders who suffered a great loss because of SEC misconduct, fraud and material fraud.
6. Provide comprehensive judicial review of SEC enforcement mechanisms

VIII. CONCLUSION

This motion represents more than individual legal relief. It is a critical challenge to systemic institutional misconduct that threatens the fundamental principles of entrepreneurial justice, due process, and constitutional protections.

Respectfully submitted,

Lupe Rose March 24, 2025

Pro Se Defendant

Lupe Rose Shelley