

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Steven B. Cummings, et al.,

Civil No. 09-847 (RHK/JJK)

Plaintiffs,

ORDER

v.

Paramount Partners, LP, et al.,

Defendants.

Before the Court are the Objections of certain defendants to the March 1, 2010 Report and Recommendation of Magistrate Judge Jeffrey J. Keyes. Judge Keyes has recommended that the pending Motion to Dismiss portions of the Second Amended Complaint be denied. Having reviewed de novo the Report and Recommendation, and Defendants' Objections thereto, and upon all of the files, records, and proceedings herein, **IT IS ORDERED:**

1. Defendants' Objections (Doc. No. 63) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 60) is **ADOPTED**;
3. Defendant Charles T. Thompson's Motion to Dismiss Second Amended Complaint (Doc. No. 27), and Defendants' Michael W. Bozora's, Timothy R. Redpath's, Capital Solutions Distributors, LLC's, and Capital Solutions Management, LP's, Amended Motion to Dismiss (Doc. No. 28), are **GRANTED IN PART** and **DENIED IN PART** as follows:

- a. The Section 12(a)(1) claims in Count I of the Second Amended Complaint of Plaintiffs Ellen DeHaven, John Gardiner, John Gardiner as custodian for Max A. Gardiner, John Gardiner as custodian for Paige M. Gardiner, John Gardiner as custodian for Jake W. Gardiner, Steven R. Gulbrandsen, Steven R. Gulbrandsen Profit Sharing Plan, Blake Johnson, LLC, R. Thomas Lane, Craig Mandery, Guy M. Peterson, Jeffrey

M. Petrik, Sally A. Petrik, Joseph H. Ryan, Sandra M. Ryan, Robert Spadafora, Thomas C. Weekly, IRA, and Daniel White are **DISMISSED AS TIME BARRED**;

b. The Section 12(a)(2) claims in Count II of the Second Amended Complaint of Plaintiffs Stephen R. Gulbrandsen, Stephen R. Gulbrandsen Profit Sharing Plan, and Thomas C. Weekly are **DISMISSED AS TIME BARRED**;

c. The Section 10(b) and Rule 10b-5 claims in Count II of the Second Amended Complaint of Plaintiffs Stephen R. Gulbrandsen and Thomas C. Weekly are **DISMISSED AS TIME BARRED**;

d. Count IV of the Second Amended Complaint is **DISMISSED** for failure to state a claim under the Minnesota Consumer Fraud Act;

e. Plaintiffs' claim for punitive damages is **DISMISSED WITHOUT PREJUDICE**; and

f. The Motions are **DENIED** in all other respects.

Dated: May 25, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge