

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
ENTERED

NOV 17 2004

Michael H. Milby, Clerk of Court

PREMIERE HOLDINGS OF TEXAS LP  
LIQUIDATING TRUST, et al

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Plaintiffs,

VS.

CIVIL ACTION NO. H-04-2398

ANN AND STEPHEN KAUFMAN  
FOUNDATION

Defendants.

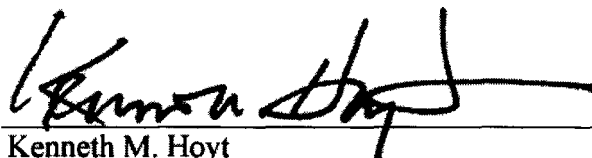
**ORDER**

Before the Court is the defendants' motion to dismiss the plaintiff, the Trustee of the Premiere Holding of Texas, LP, Liquidating Trust, suit against them pursuant to FRCP 12(b)(6), 9(b) and § 546(e) of the Bankruptcy Code. The defendants argue that the Trustee seeks to avoid transfers that were in fact settlement payments made by the plaintiff corporation as a stockbroker would make to a customer.

The Court is of the opinion that the facts are sufficiently convoluted and that questions of fact as well as mixed questions of law and fact dictate that the "wheat is separated from the chaff" during a trial. Hence, the defendants' motions to dismiss (#13 and 20) are Denied. The motion to strike affidavits (#15) and objections to certain affidavit(s) (#19) are Denied.

It is so Ordered.

SIGNED 11/17/2004



Kenneth M. Hoyt  
United States District Judge