UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

IN RE: **TAMIO L. STEHRENBERGER and ANNA C. STEHRENBERGER,** **Debtors.**	**Case No. 20-00833-NGH**
MICHIKO STEHRENBERGER, **Plaintiff,** **v.** **TAMIO L. STEHRENBERGER and ANNA C. STEHRENBERGER,** **Defendants.**	**Adv. No. 20-06044-NGH**

SUMMARY ORDER DENYING MOTION

The Court entered a judgment in favor of plaintiff Michiko Stehrenberger against defendant Tamio Stehrenberger on April 15, 2026.[1] Doc. No. 527. On April 22, Tamio filed a "Motion to Alter or Amend Judgment and for Relief from Judgment." Doc. No. 529 (the "Motion"). Tamio submitted a memorandum of law, a declaration, and a declaration by his former counsel, Mr. Nguyen, in support. Doc. Nos. 530, 531, 532. As

[1] Given the parties' shared surname, the Court will refer to them using their first names (Michiko and Tamio) when discussing them individually. No disrespect is intended.

the basis for relief, Tamio cites Civil Rules 52(b), 59(e), and 60(b), made applicable to this proceeding by Rules 7052, 9023, and 9024, respectively.[2]

As set forth in the Court's Memorandum of Decision, the Court found Tamio sold unregistered securities in violation of the Utah Uniform Securities Act ("UUSA"). *See* Doc. No. 518. While Tamio asserted the transaction was exempt from registration, the Court held Tamio did not meet his burden of demonstrating an exemption applied.

1. Civil Rules 52(b) & 59(e)

Civil Rule 52(b) provides: "On a party's motion filed no later than 28 days after the entry of judgment, the court may amend its findings—or make additional findings—and may amend the judgment accordingly." This rule "gives the 'court an opportunity to correct manifest errors of law or fact at trial, or in some limited situations, to present newly discovered evidence.'" *Zazzali v. Goldsmith (In re DBSI, Inc.)*, 2018 WL 6931280, at *1 (Bankr. D. Idaho Nov. 21, 2018) (quoting 9C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2571 (3d ed. 2018)). It "does not allow an unsatisfied party to relitigate old issues, advance new theories, or get a rehearing on the merits." *Id.* (quoting *Owen v. Lundstrom (In re Owen)*, 2006 WL 2548787, at *1 (Bankr. D. Idaho Aug. 31, 2006)). *See also Phillips, Spallas & Angstadt, LLP v. Fotouhi (In re Fotouhi)*, 2008 WL 821723, at *3 (Bankr. N.D. Cal. Mar. 24, 2008) (collecting cases). Similarly, pursuant to Civil Rule 59(e), a court may grant a motion to alter or

[2] Unless otherwise indicated, all statutory citations are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532. Additionally, all citations to "Rule" are to the Federal Rules of Bankruptcy Procedure and all citations to "Civil Rule" are to the Federal Rules of Civil Procedure.

amend a judgment on four grounds, namely: "1) the motion is 'necessary to correct manifest errors of law or fact upon which the judgment is based;' 2) the moving party presents 'newly discovered or previously unavailable evidence;' 3) the motion is necessary to 'prevent manifest injustice;' or 4) there is an 'intervening change in controlling law.'" *Turner v. Burlington N. Santa Fe R.R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003) (emphasis removed) (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1254 n.1 (9th Cir. 1999)). "A manifest error of fact or law must be one 'that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record.'" *Wallace v. Hayes (In re Wallace)*, 2013 WL 782721, at *2 (Bankr. D. Idaho Feb. 27, 2013) (quoting *In re Oak Park Calabasas Condo. Ass'n*, 302 B.R. 682, 683 (Bankr. C.D. Cal. 2003)). A motion under 59(e) "will not be granted 'absent highly unusual circumstances,' and reconsideration of a judgment or order after its entry by the court 'is an extraordinary remedy which should be used sparingly.'" *Id.* (quoting *McDowell*, 197 F.3d at 1254 n.1). Such motion "may not be used to simply ask the Court to rethink matters already decided, to reargue matters already submitted, or to attempt to cure deficiencies in earlier submissions that were found to be inadequate." *In re Wilson*, 349 B.R. 831, 834 (Bankr. D. Idaho 2006) (quoting *In re Negrete*, 183 B.R. 195, 197 (9th Cir. BAP 1995), aff'd, 103 F.3d 139 (9th Cir. 1996)).

Here, Tamio asserts the Court committed a manifest error of law or fact when it found Tamio violated the UUSA by selling unregistered securities. Tamio argues the Court erred in finding an exemption found in Utah Code § 61-1-14(2)(q) to the registration requirements did not apply because the Court did not identify evidence that

Star Mountain's aggregate offering exceeded a $500,000 threshold. Tamio claims the "absence of explanatory evidence is not affirmative proof that the statutory threshold was exceeded." In his memorandum, Tamio argues the Court erred because "[n]o admitted evidence identifies what portion of the account growth, if any, consisted of third-party investor contributions," and "[t]he record contains no evidence establishing investor contributions within any specific twelve-month period." Tamio asks the Court to amend its findings and the judgment to reflect that the aggregate offering did not exceed the statutory threshold.

Tamio misconstrues the Court's findings and his burden. Once it was established that Tamio sold unregistered securities, the burden shifted to Tamio to show the claimed exemption applied. Tamio contends that "the Court's finding that Star Mountain's aggregate securities offering exceeded the $500,000 exemption threshold" was an error. Motion at 2. However, the Court made no such finding. Instead, the Court concluded that "Tamio failed to demonstrate Star Mountain's aggregate offering remained below the statutory threshold." Doc. No. 518 at 22. By asserting there was no affirmative evidence that the exemption *did not* apply, Tamio attempts to foist his evidentiary burden onto another. It did not fall on the Court or Michiko to identify which of the funds in Star Mountain's investment account were and were not attributable to Star Mountain's offerings to third party investors or the aggregate offerings made by Star Mountain in any 12 consecutive months. Rather, that burden fell on Tamio, and Tamio did not present sufficient evidence on which the Court could conclude Star Mountain's offerings fell within the exemption.[3] As Tamio himself notes, "the record contains no evidence establishing investor contributions within any specific twelve-month period." Doc. No. 530 at 9. That is precisely the deficiency that led to the Court's ruling. Put another way, the Court did not rely on the growth in the identified investment account, it relied on Tamio's failure to put forth sufficient evidence regarding Star Mountain's aggregate offerings to investors during any 12 consecutive month period, including the period identified in the decision in which the account balance grew drastically.

2. Civil Rule 60(b)

(a) Newly Discovered Evidence

Alternatively, Tamio seeks relief under Civil Rule 60(b)(2), which provides in part that the court may relieve a party from a final judgment for "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)."

> Relief from judgment on the basis of newly discovered evidence is warranted if (1) the moving party can show the evidence relied on in fact constitutes "newly discovered evidence" within the meaning of Rule 60(b); (2) the moving party exercised due diligence to discover this evidence; and (3) the newly discovered evidence must be of "such magnitude that production of it earlier would have been likely to change the disposition of the case."

Feature Realty, Inc. v. City of Spokane, 331 F.3d 1082, 1093 (9th Cir. 2003) (quoting *Coastal Transfer Co. v. Toyota Motor Sales, U.S.A., Inc.*, 833 F.2d 208, 211 (9th Cir.

[3] To the extent Tamio argues that the Court's finding that Tamio's violations were not intentional or reckless cannot be reconciled with a finding that he failed to prove compliance with the exemption threshold, the Court disagrees.

1987)). "Evidence is not 'newly discovered' under the Federal Rules if it was in the moving party's possession at the time of trial or could have been discovered with reasonable diligence." *Coastal Transfer Co.*, 833 F.2d at 212.

Tamio argues relief is appropriate because after the Court's ruling, Tamio re-established contact with Mr. Nguyen who produced an email Tamio had sent him in which Tamio identifies the source of funds in Star Mountain's investment account. This email is not "newly discovered evidence" within the meaning of 60(b)(2). Tamio is the party who sent the email to Mr. Nguyen and was thus aware of its contents and existence at all times during this proceeding. Furthermore, Tamio offered no explanation as to why he could not have, with reasonable diligence, discovered and produced this email or its contents at trial.[4]

(b) Other Reason Justifying Relief

Under Civil Rule 60(b)(6), a court may relieve a party from a final judgment or order for "any other reason that justifies relief." This catch-all provision, though seemingly quite broad, has been narrowly construed. *See In re Shingleton*, 2007 WL 2743503, at *3 (Bankr. D. Idaho Sep. 18, 2007). Courts have applied Civil Rule 60(b)(6) only "to prevent manifest injustice" and "only where extraordinary circumstances prevented a party from taking timely action." Civil Rule 60(b)(6); *Decembre v. Nations*

[4] To the extent Tamio argues he could not have discovered the evidence with reasonable diligence because the materiality of the funds in Star Mountain's investment account was not known to him until the Court entered its decision, such argument is not persuasive. Tamio, as the party claiming the exemption, was, or should have been, aware of his burden to demonstrate Star Mountain's offerings remained below the statutory threshold.

First Cap., LLC (In re Nations First Cap., LLC), 851 F. App'x 32, 34-35 (9th Cir. 2021) (quoting *Zurich Am. Ins. Co. v. Int'l Fibercom, Inc. (In re Int'l Fibercom, Inc.)*, 503 F.3d 933, 941 (9th Cir. 2007)). In other words, Civil Rule 60(b)(6) is used sparingly.

At trial, the Court sustained the defendants' objections to the admission of Michiko's Exhibit 1002 on authentication grounds. Tamio seeks relief from the judgment under (b)(6) because, after the Court's decision, he obtained a sworn declaration from Mr. Nguyen regarding the authenticity of said exhibit. In other words, Tamio seeks admission of an exhibit he successfully objected to at trial. Tamio has not demonstrated relief under (b)(6) is appropriate. There is no allegation that manifest injustice will result from the Court's ruling, nor any assertion of extraordinary circumstances that prevented Tamio from proceeding in a proper fashion.

(c) Excusable Neglect

While Tamio does not address this ground at length in the Motion or supporting documents, he asks the Court to grant relief under (b)(1) for "mistake, inadvertence, surprise, or excusable neglect." Tamio seeks admission of an exhibit disclosed on his exhibit list and contained in his exhibits at trial that was not formally offered due to his "pro se status." However, Tamio offered no explanation as to the circumstances constituting excusable neglect. The mere fact that Tamio was unrepresented by counsel is insufficient to support a finding of excusable neglect under (b)(1).

The Court has considered all arguments raised by Tamio in the Motion. Any arguments made by Tamio in the Motion that are not specifically addressed are irrelevant, frivolous, and/or without merit.

Therefore, for the reasons set forth above, the Motion is DENIED.

DATED: June 12, 2026

NOAH G. HILLEN
U.S. Bankruptcy Judge