

**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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IN THE MATTER OF THE LICENSE  
OF:

**STATEMENT OF ANSWER**

Thomas M. Couch (CRD #1271694);

Docket # SD-01-0128

Respondent.  
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*Now comes the above named Respondent, Thomas M. Couch, appearing Pro Se, submitting this Statement of Answer in reply to the Division's Petition For Order Suspending, Revoking, Barring and/or Censuring License dated 24 October 2001:*

**Statement of Facts**

1. Respondent Couch admits the allegations as contained in Paragraph 1 of the Petition.
2. Respondent Couch admits the allegations as contained in Paragraph 2 of the Petition.
3. Respondent Couch admits the allegations as contained in Paragraph 3 of the Petition. Respondent Couch does however deny that he was Majority Shareholder in the Broker / Dealer at the time in which Respondent McKayle was hired nor did he have any participation in the decision to hire Respondent McKayle.
4. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Petition.
5. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Petition.

6. Respondent Couch admits the allegations as contained in Paragraph 6 of the Petition.
7. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Petition.
8. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Petition.
9. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Petition.
10. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Petition against the remaining Respondents but denies the allegations as they specifically pertain to him.
11. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Petition.
12. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Petition against the remaining Respondents but denies the allegations as they specifically pertain to him.
13. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Petition.
14. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Petition against the remaining Respondents but denies the allegations as they specifically pertain to him.
15. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Petition.
16. The Division has failed to allege a Paragraph 16 in the Petition.
17. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Petition.
18. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Petition against the remaining Respondents but denies the allegations as they specifically pertain to him.

19. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Petition against the remaining Respondents but denies the allegations as they specifically pertain to him.
20. Respondent Couch denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Petition.

### **AFFIRMATIVE DEFENSES**

1. There were specific supervisory procedures in place to comport with the regulatory requirements as they relate to Respondent Couch & Company's employment of Respondent McKayle. Respondent Couch was not Respondent McKayle's direct supervisor. Demonstrative of this is the fact that General Securities Principles were employed at the New York City offices of Couch & Company and expressly delegated with this task. Respondent Couch was not even located in said office at any point in time. The record reflects that Respondent Couch was located in Texas at all times relevant to the Petition.
2. Respondent Couch denies that he had full, complete, ongoing and contemporaneous knowledge of the acts complained of by the Division.
3. Respondent Couch, in discharging his duties to the Division as well as the Complainant, acted in good faith and exercised at least that degree of care, diligence, and skill which ordinary prudent persons would exercise in similar circumstances and like positions.
4. A cause of action premised under Control Person liability requires that specific factual allegations exist against a Respondent. Pre-requisites to control person liability are that the control person was aware of the facts complained of, had ability to control the conduct, and in order to be liable for a failure to supervise, breached a duty to supervise [See Loss, Fundamentals of Securities Regulations pp. 1085-1089]. The Division has not submitted one scintilla of evidence exists that Respondent Couch was aware nor culpably participated in the alleged improper acts referenced in the Petition.
5. The Division's demand for relief against Respondent Couch is speculative, improper as a matter of law and without foundation as a matter of fact.
6. The Petition for Relief is insufficient as to any cause of action against Respondent Couch.

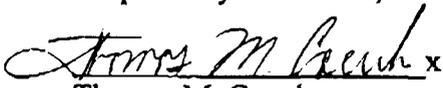
**REQUEST FOR RELIEF**

*Wherefore, Respondent Couch respectfully requests the Petition be dismissed in its entirety as against him inasmuch as the Division has failed to state a cause of action upon which relief can be granted against him.*

*In the alternative, Respondent Couch respectfully requests a Hearing in the above captioned matter on the merits of the Division's allegations against him.*

Dated: 22 November 2001

Respectfully Submitted,

  
Thomas M. Couch