Bryce B. Higbee (10258)
ATTORNEY AT LAW
727 N. 1550 East
Suite 410
Orem, Utah 84097
Telephone: (801) 341-0155

Attorney for Respondents

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

IN THE MATTER OF: COCAPITAL, LLC COBY TIPPETTS RESPONDENTS.	**MOTION AND MEMORANDUM TO DISMISS FOR LACK OF JURISDICTION** Docket No. SD-08-0107 Docket No. SD-08-0108

Comes now the Respondents CoCapital, LLC and Coby Tippetts (individually), by and through its and his attorney Bryce B. Higbee and Motions the Director to dismiss the Order to Show Cause ("OSC") and substantive allegations for lack of subject matter jurisdiction.

The Utah Securities Division does not have jurisdiction over acts and controversies that occur in another State. During the time of the alleged acts CT and GT were both Nevada residents. At the time of the loans at issue in the OSC, Mr. Tippetts resided in Nevada. All of the facts alleged in the Order to Show Cause and any underlying facts not specifically alleged, took place in Nevada. Nevada is the proper jurisdiction, not Utah. CT and GT acknowledge the same in a recent lawsuit filed in Nevada.

The Division of Securities ("Division"), in its Statement of Jurisdiction in the OSC,

alleges that jurisdiction over the "Respondents and the subject matter is appropriate because the Division of Securities alleges that they violated § 61-1-1 (securities fraud) of the Act *while engaging in the offer and sale of securities* ***in or from Utah***." *See* Order to Show Cause page 1 (emphasis added). The facts, as alleged by the Division, do not support the Division's position that the alleged acts occurred *in or from Utah.*

It is clear, from the facts alleged in the OSC any offer or sale of securities allegedly to have occurred in Nevada, not in Utah where both CT and GT were residents, Mr. Tippetts was a resident at the time, and CoCapital was a Nevada Corporation doing business in Nevada. Therefore, the Respondent moves that the action taken here be dismissed for failure of this Department to have Jurisdiction.

Dated this 23 day of February

Bryce B. Higbee
Attorney for Respondents

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was mailed by First Class Mail this 23 day of Feb, 2009 to the following:

Administrative Court Clerk
c/o Pam Radzinski
Division of Securities
160 E. 300 S., Second Floor
Box 146760
Salt Lake City, UT 84114-6760

Jeff Buckner
Assistant Attorney General
160 E. 300 S., Fifth Floor
Box 140872
Salt Lake City, UT 84114-0872