

SEP 08 2009

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

Utah Department of Commerce
Division of Securities

IN THE MATTER OF:)	
)	WRITTEN RESPONSE
)	
DAVID STERLING JENSEN,)	Docket No. SD-09-0040
CRD#11095958)	
)	Judge J. Steven Eklund
Respondent.)	

ANSWER

Respondent, in written answer to the order to show cause filed in the above entitled case, and as required in item (a), page 2 of Notice of Agency Action admits or denies as follows;

1. Admit.

2. Sentence 1. Denies, based on information and belief.

Sentence 2. Denies, because of denial of sentence 1. above, and Mr. Jensen doesn't have a clear recollection back a quarter of a century.

Sentence 3. I don't clearly recall a quarter of a century ago, thus Denies.

3. Can't remember back 23 years ago to when I was or wasn't licensed, thus Denies.

4. Denies, based upon information and belief.

5. Admit, previously communicating to C.J., "Jensen was a CPA". Denies the remainder of paragraph 5. based on information and belief.

6. Denies. Based on information and belief and information stated therein are vague.

7. Admit (d) paragraph 2. and footnote thereto. Denies the remainder, based on information and in contradiction with other allegations by the Utah Securities Division (hereinafter called Division)

8. Denies. Vague and nonspecific.

9. Admit to frequent communications between Mr. Jensen and C.J. Denies the remainder of paragraph 9.

10. Denies. Based on information and belief.

11. Denies. Based on information and belief.

12. Denies. Based on information and belief.

Denies generally each and every allegation of this Order to Show Cause and Notice of Agency Action, not herein specifically admitted, qualified or denied.

IDENTIFY ANY ADDITIONAL FACTS OR DOCUMENTS WHICH YOU ASSERT ARE RELEVANT IN LIGHT OF THE ALLEGATIONS MADE

Respondent, in written answer to the order to show cause filed in the above entitled case, and as required in item (b), page 2 of Notice of Agency Action brings up the following facts and/or documents relevant to the allegations made;

1. The burden of proof, rests with Division in this matter.
2. Cal Jones, (hereinafter referred to as C.J.) had unilaterally set up "the account" with TD Ameritrade before he contacting David Jensen in late August 2006.
3. C.J. unilaterally set up the account as a margin account, an options account and for his suitability.
4. After C.J. had set up the account, he contacted Mr. Jensen in late August 2006 and solicited Mr. Jensen to trade his account with C.J.'s full knowledge and consent.
5. Mr. Jensen before being contacted in late September 2006, had not spoken with or to C.J. for over 2 years.
6. C.J. was the one who came up with the idea of Mr. Jensen trading equity options in other's

accounts.

7. Mr. Jensen, contacted his Securities Attorney, Wallace T. Boyack, to make sure what C.J. was not only legal, but that a contract in writing would be drawn up.

8. Mr. Jensen, was informed by Mr. Boyack, that no securities licenses would be needed by Mr. Jensen, unless Jensen had a minimum of 5 clients he was doing investment or advisory services.

9. Jensen, had zero clients, for which he provided advisory or representative services regarding securities.

10. Mr. Jensen did not hold himself out to be an investment advisor or representative.

11. Mr. Jensen, had no letterhead as an investment advisor or representative.

12. Mr. Jensen had no calling cards showing investment advisor or representative.

13. Mr. Jensen has never received one penny of income for investment or advisory services.

14. Mr. Jensen did not have a telephone number or listing in any telephone book as an investment or advisory representative.

15. Mr. Jensen told Mr. Jones he had no securities licenses.

16. Mr. Jensen's attorney told C.J. he had no securities licenses.

17. Mr. Jensen has been an accountant since 1967, through and including year 2006.

18. C.J. was provided a Contract, prepared by Mr. Jensen's attorney, Wallace Boyack, which C.J. picked up.

19. In late August, when C.J. called Mr. Jensen, he said he had a copy of the agreement by Mr. Boyack and said he would execute such contract and provide it to Jensen.

20a. C.J. said he wanted Mr. Jensen to handle his account for years.

20b. The contract had wording and showing a high probability that the contract in question

would be for more than a year.

21. C.J. continued to take advise from Jensen long after Mr. Jensen had been denied access to C.J.'s account.
22. Jensen never received contract from C.J. as Jones had promised.
23. Jensen never received any consideration, either good or valuable from C.J.
24. Mr. Jensen had access to C.J.'s account for approximately 6 weeks.
25. C.J. provided Jensen full access to his account.
26. C.J. and Jensen discussed in great detail, exactly what C.J.'s wanted to do.
27. C.J. had full access to his own account.
28. C.J. at any time could change the trades made in his account.
29. C.J. at any time could make trades in his own account.
30. C.J. at any time could withdraw the money from his account.
31. C.J. talked about adding another \$30,000 to his account.
32. C.J. knew equity options.
33. C.J. is a sophisticated investor.
34. C.J. is a more sophisticated investor than is Mr. Jensen
35. C.J. has been in the securities and investment business for most of his career.
36. C.J. has an MBA in Business.
37. C.J. had or has a minimum of 4 securities licenses, including a securities principals license.
38. C.J. has testified as an expert witness in equity options trading.
39. C.J. is an accredited investor.
40. C.J. put into his account less than 10% of his current assets.

41. Jensen wouldn't allow C.J. to put more than 10% of his current assets, which C.J. alleged to Jensen was in excess of \$330,000.
42. C.J. being an accredited investor, the \$30,000 was less than 3% of C.J.'s net worth.
43. Jensen discussed at great lengths with C.J., that all his moneys could be lost trading equity options.
44. C.J. acknowledged what is shown in item 43.
45. Not one trade was made in C.J.'s account without C.J.'s knowledge and approval.
46. C.J. praised Jensen on numerous occasions for his good work.
47. C.J. must have thanked Jensen for his efforts more times than I can count, including the last email to Jensen, when Jensen no longer had access to C.J.'s account.
48. It was C.J. who brought up the 15% on gains with Jensen.
49. Jensen was reluctant to trade C.J.'s account, thus C.J. is the one who brought up the 15%.
50. It was also C.J. who wanted to put an additional \$30,000 into his account. Jensen advised otherwise.
51. At absolutely no time, did C.J. say that Jensen would be liable for losses.
52. At no time, did Jensen agree to being liable for any losses.
53. At no time while Mr. Jensen had access to C.J.'s account, did C.J. ever communicate to Mr. Jensen, that;
 - a. You misrepresented to me.
 - b. You owe me for losses
 - c. You are unlicensed
 - d. You lied to me

- e. You misled me
- f. The account you are trading is my wife's.
- g. I'm not sending you the contract, I promised I was going to execute.

54. C.J. comes with unclean hands, including but not limited to;

a. Misrepresentations and/or lies to Mr. Jensen

- 1. Fiduciary responsibility as a CPA
- 2. "I took a \$30,000 hit in 60 days"

b. Misrepresentations and/or lies to the Division

- 1. Saying the account was his wife's account when numerous emails show;
 - a) C.J. emails stating the account as **MY** (emphasis added) account.
 - b) C.J. referencing the losses in the account as **I** (emphasis added) lost.

c. Misrepresentations and/or lies to TD Ameritrade

- 1. Options trading
- 2. Mr. Jensen having authorized to trade account

d. Securities Principal of a firm

- 1. Raided by IRS and SEC
- 2. Unindicted co-conspirator, taxes and securities fraud.
- 3. Warned about as a scam in the newspaper.

e. Extorting Jensen

- 1. Using the Division's "ruthless"ness to go after Jensen
- 2. Communicating to Jensen he was going to sue Jensen

f. If Jensen has committed some sort of securities irregularities, what has C.J. done

g. C.J. acts as if he is the victim

55. C.J.'s wife comes with unclean hands, including but not limited to;

a. Misrepresentations to TD Ameritrade

1. Margin Account

2. Options status

3. Suitability

4. Accredited

5. C.J. had authority to trade account

6. Mr. Jensen had authority to trade account

b. Never communicating with Mr. Jensen

c. Never executing contract with Mr. Jensen

d. Why isn't Mrs. Cal Jones' wife filing a complaint with Division

56. C.J. admits on numerous emails to Mr. Jensen times **WE** (emphasis added) were wrong, regarding the markets and trades.

57. C.J. in a letter to Jensen writes, "I would be willing to assume some responsibility".

58. C.J.'s wife has never met Jensen.

59. C.J.'s wife has never talked to Jensen.

60. Mr. Jensen, doesn't know C.J.'s wife's name.

61. The victim is C.J.'s wife.

62. This complaint is based upon third party hearsay.

63. There was a high probability Mr. Jensen would be trading the account and giving advice over a year.

64. Neither, Division nor C.J. have provided any evidence of C.J. holding full trade authorization on the account “at any time”.
65. Neither, Division nor C.J. have provided one piece of evidence to Mr. Jensen, despite numerous requests by Mr. Jensen regarding this matter.
66. Calvin Jones (hereinafter called C.J.) is known in and around Utah’s Securities markets as a securities guru. He has or had all of the following;
- a. M.B.A.
 - b. B.A. from the University of Utah
 - c. He has held or holds, including but not limited to securities licenses 7, 24, 63 and 65.
 - d. Been in the securities business for 4 decades.
 - e. Has been a principal in brokerage firms.
 - f. Has been an agent for several brokerage firms.
 - g. Has testified on several occasions as an expert and summary witness in securities matters including but not limited to options trading.
 - h. C.J. has been an officer, director and/or affiliate or 5% or more stockholder in many public companies.
 - I. C.J. has received finders fees for mergers and acquisitions of numerous companies.
 - j. Has formed and been the managing director of several securities firms.
 - k. Has been a top-producing broker among 1,000 brokers.
 - l. Has handled approximately 150 client portfolio accounts.
 - m. Has had over 350 clients at any given time as a licensed securities person.
67. David Jensen was an accountant while having access to “the account” and has been an

accountant since 1967 through and including mid October of 2006.

68. Mr. Jensen has been a Certified Public Account in Colorado starting in August of 1971 and was a certified public accountant in Nevada and Utah.

69. Mr. Jensen has never had a complaint filed against him while being a Certified Public Account during 3 decades.

70. Mr. Jensen was employed as an Accountant for the United States Securities and Exchange Commission.

71. Mr. Jensen had securities licenses in the 1980s.

72. While Mr. Jensen had his securities licenses he never once had a complaint filed against him.

73. When C.J. called Mr. Jensen to trade his account, C.J. was very bearish (thought the markets were going to go down) on the stock markets.

74. C.J. wanted to use the leverage advantages of options to take advantage of markets dropping without the risks of the markets going up.

75. C.J. continued to email Mr. Jensen about how bearish he was.

76. Mr. Jensen told C.J. there was only one way to use options for a down market with limited liability on how much he could lose and that was by buying equity puts.

77. Shorting stocks or securities in a bearish market gives an investor infinity dollar losses for risk consideration.

78. Selling calls in a bearish market also gives one infinity dollar losses as a possible risk.

79. C.J. acknowledged that the only way to move forward in the pending down (bearish) market was to buy equity puts, since all one could lose is their investment.

80. The 15% was to be paid at the end of each month from the gains for the current month's

gains from the prior months gains, based on mark to market accounting.

81. If Jensen had losses all the way to end of the year, the account would start with the year end mark to market balance as the new starting point.

82. Losses were discussed and no time was Jensen to be held accountable in any way for losses.

83. The fact I had no securities licenses was of no concern to C.J. In fact he agreed, none were needed.

84. C.J. said he wasn't concerned about me not having any licenses. That he had talked to me and asked me questions about options and he being a former expert and summary witness in an options case in the State of Washington and the fact he had like every securities license known to man, that he C.J. knew I knew options.

85. C.J. also said what difference does it make anyway. If I don't like what your are doing in my account, you won't get paid, because you will be losing money and;

- a. I can cancel out the trades
- b. I can reverse the trades
- c. I can change the password to the account and you can't get in to the account and make trades.
- d. I can take my money out of the account at any time

86. I told C.J., all he needed to do, was tell me to stop and I would. No questions asked.

87. I asked C.J., how long he wanted me to trade his account, he said for more than a year.

88. C.J. initially told Mr. Jensen, not to lose more than 50% of his \$30,000.

89. Mr. Jensen never did lose more than 50% of C.J.'s \$30,000

90. Later on C.J. emailed to Mr. Jensen, don't touch my account

91. Webster's Dictionary defines "toast", slang as one that is finished or done for
92. C.J.'s account was never toasted
93. C.J. wrote Mr. Jensen a letter well over a month after Jensen had been excluded from trading in C.J.'s account and alleged that all C.J.'s \$30,000 was lost, which was a lie.
94. When Mr. Jensen was excluded from C.J.'s account there was a value of over \$7,000 in the account.
95. Through the instructions and directions directly from C.J., Mr. Jensen was forced by C.J. to sell two equity put options, because C.J. by his own admission had panicked.
96. A 1 to 2 trading days later from item 95., C.J. rejoiced and said in an email, a down day, I've died and gone to heaven. I said, no you haven't you forced me to sell all your puts and by doing such you've caused yourself a loss of \$7,500 (actually loss was \$7,830 do to C.J.'s actions, I said \$7,500 to ease C.J.'s anxiety which he caused to himself).
97. To which C.J. replied in an email from item 96. Ok, I panicked. You have my permission to come over here and kick my ass.
98. There is no victim complainant in this matter.
99. It was C.J.'s own emotions or decision making which caused most of the losses.
100. C.J. admitted in several emails that he was actively involved in the decision making.
101. With C.J.'s knowledge and consent Mr. Jensen started making trades agreed to buy equity puts.
102. Jensen was going to have access to the C.J.'s account and do equity options trades with C.J.'s knowledge and consent.
103. C.J. solicited Jensen to trade in his (Cal Jones) account. Jones continually references the account as "my" (his) account, numerous times in emails to Jensen and conversations.

104. Jensen first met C.J. in the summer of 2003, through Doug Nelson. C.J. was touting Jensen on a PIPE fund C.J. was selling and promoting.

105. C.J. solicited Jensen, to trade C.J.'s clients' accounts in year 2003.

106. Jones was going to split the fees 50/50 on gains from clients with Jensen and Jones was suppose to do all client contacts and explain risks of options to C.J.'s clients. Jensen was to get 10% from C.J.'s client and C.J. would negotiate whatever fee he could get. He said he was going to try and get 10% from his clients.

107. Jensen informed C.J. he had no securities licenses.

108. C.J. communicated to Jensen, Jensen needed no licenses to trade inside someone's account.

109. Jensen consulted with and got advise from his Securities Attorney, Wallace T. Boyack, regarding C.J.'s proposal.

110. Securities Attorney Wallace Boyack prepared information and a written contract for C.J. to provide to C.J.'s clients for Jensen to trade their accounts.

111. The agreement provided to C.J. from Jensen's attorney clearly stated a client could lose all their money.

112. For a client to open an account requires client to receive a booklet from the brokerage firm, prepared primarily by the Chicago Board Options Exchange (hereinafter called CBOE), entitled "Characteristics and Risks of Standard Options" (hereinafter called CRO).

113. C.J. said he had read and understood all the risks in the CRO and in the contract he received from Jensen's attorney.

114. The written contract provided to C.J. from Jensen's attorney, disclosed fully Jensen had no securities licenses.

115. All clients C.J. brought to Jensen were to be sophisticated and accredited.

116. Jensen's attorney told Jensen, he needed no securities licenses with 5 clients or less.
117. C.J. had his client, Keith Merrill, call Jensen to trade his account with equity options in late 2003.
118. Jensen asked Mr. Merrill, if C.J. had gone over the risks of options with C.J., Mr. Merrill said he hadn't.
119. Jensen explained the risks of equity options trading, including but not limited to;
- a. One could lose all their money.
 - b. Options move very quickly and gains and losses can be very dramatic.
120. Jensen told Mr. Merrill he could lose all his money.
121. I told Mr. Merrill, options trading is high risk, with potential high rewards and high losses.
122. After Mr. Merrill and I talked I told Mr. Merrill, I would not trade his account. I told him, he needed to talk with C.J. and totally understand options trading and the risks involved and sign the contract which my attorney had prepared for C.J.
123. Jensen contacted C.J. and told him all of the above. C.J. said he'd meet with Mr. Merrill and get back to me.
124. Jensen never heard from Keith Merrill again.
125. Jensen had access to one client's account, C.J.'s, for about a month and a half.
126. At no time, did C.J. communicate Jensen would have to cover losses.
127. At no time did C. J. communicate Jensen would have to pay a percentage of losses.
128. David Jensen, doesn't know the name of Cal Jones' wife.
129. David Jensen has never met Cal Jones' wife.
130. David Jensen has never talked to Cal Jones' wife.

131. David Jensen has never spoken with Cal Jones' wife.
132. David Jensen never knew while having access to "the account" being traded, was Cal Jones' wife's.
133. In fact Cal Jones continually and numerous referred to "the account" as "my" (Cal Jones) account.
134. Cal Jones was and is a sophisticated investor and I'm going to guess his wife is not. How could her account be opened for options trading if she wasn't sophisticated?
135. Cal Jones at all times had total control of "the account".
136. C.J.' wife communicated to T.D. Ameritrade she was a sophisticated equity options investor.
137. C.J.' wife communicated to T.D. Ameritrade she wanted a margin account.
138. C.J.' wife communicated to T.D. Ameritrade she was an accredited investor.
139. C.J.' wife communicated to T.D. Ameritrade she met the suitability standards of being an equity options trader.
140. C.J. and/or his wife have committed fraud against T.D. Ameritrade.
141. C.J. and his wife committed fraud against Jensen.
142. C.J. and his wife didn't communicate with the brokerage firm TD Ameritrade, David Jensen was going to have access to "the account".
143. TD Ameritrade asks specifically who will have access to their account other than account holder.
144. C.J.'s wife, didn't communicate to TD Ameritrade C.J. would have access to her account.
145. C.J.'s in an email to Jensen, trying to make Jensen pay him, that if Jensen didn't pay he

would go to the Division. "They (Division) are pretty ruthless these days.

146. After repeated threats of lawsuits and the statute of limitations expiring, C.J. went to the Division, who have now fulfilled their ruthless description, which C.J. them as being.

147. Velez Capital Management (hereinafter referred to as Velez), gives traders a minimum of \$50,000 (to begin with) of Velez's money and several traders over millions of dollars of their own money for trader to trade in Velez's account. Velez Capital Management takes all losses.

Trader gets 80% of gains. When contacting them and asking them what securities licenses were needed, they said NO state or federal securities licenses were needed.

<http://www.vcmtrading.com/index.php#> Frequently asked questions at Velez here

<http://www.vcmtrading.com/faq.php> .

148. About \$7,000-\$7,500 was the balance in the account when Jensen was unilaterally excluded from the account. C.J. changed the password in mid October 2006.

149. Offshore Alert Newspaper warned of a securities firm C.J. was the primary principal of in 2002.

150. C.J. fraudulently wrote to Jensen the account was zero and Jensen owed C.J. \$30,000 for his (C.J.'s loss).

151. Jensen was never a CPA nor an accountant for C.J.

152. Jensen has never received on penny of remuneration from C.J.

153. C.J. has threatened Jensen in every way he could to extort Jensen into paying him.

154. C.J. admitted he was willing to accept some responsibility.

155. C.J. in emails to Jensen on numerous occasions said we (both of us) were wrong in deciding where the markets were going regarding particular stocks.

156. C.J. admitted panicking during trading.

157. C.J. email Jensen and said, “You have my permission to come over here and kick my ass”.

This was after C.J. had insisted Jensen sell all his options and days later, they were up \$7,830 higher from where C.J. had panicked.

158. C.J. contends he didn’t know Jensen wasn’t licensed. Yet in his first letter to Jensen in dated November 29, 2006, C.J. says Jensen needs a securities license. This admission by C.J. clearly shows C.J. knew Jensen had no licenses and what he was trying to do, is find any excuse he could think of to sound like he’s somehow been swindled.

159. C.J. knew he had losses in his account as early as September of 2006 through and including October 2006. In mid October C.J. changed the password to his account and Jensen never had access again, at which time no losses can be attributable to Jensen and C.J. knew what had transpired in his account.

160. CBOE has jurisdiction over equity options.

161. Equity options are not a security.

162. If one thinks markets are going down (bearish) and they are going to use options, what is the safest strategy for eliminating risk and minimizing costs of the options?

163. C.J. sent Jensen probably 50 pages of emails. There isn’t one single email from C.J. showing he in any way was bullish.

164. The last thing C.J. said to Jensen, when he emailed Jensen to no longer trade his account was “thanks”.

165. Here are some sampling of emails from C.J. to Jensen. These clearly showing what C.J. was saying and thinking from 9/1/2006 through 10/19/2006;

- a. "Rock and roll baby!" (sound close to the vest or conservative to you?) 9/1/2006
- b. "there's 30k in there, use what you need" 9/3/2006
- c. "we'll see what's going on with these bonehead" 9/5/2006 (Money couldn't be used for options and C.J. was upset)
- d. "yes, I did (call) and it won't be cleared until the 13th, I could put another 30k in via cashiers check if you want. They said the Q order (short) could still go through though. I hate brokerage firms, that's why I don't work for them any longer" 9/5/2006
- e. "ok" 9/5/2006 (on adding another 30k) Dave says no we're fine. I'll just short instead of using options.
- f. "yeah, those hemorrhoids at Ameritrade." 9/5/2006
- g. "hey good job" 9/6/2006
- h. "I can't complain" 9/6/2006
- i. "Good job this week" 9/7/2006
- j. Jensen says to C.J., "I'm unsure on market direction" 9/7/2006
- k. "I believe my account is fully operations after today, all funds should be cleared now 9/13/2006 ((see 9/5/2006) Cal is chomping on the bit for me to be buying equity options, puts)
- l. "yes you (Jensen) are right, I hope we see some sanity soon" 9/13/2006
- m. "ok, I am with you" 9/15/2006
- n. "man, Is everyone bullish these days or what" 9/26/2006
- o. "yea, we are doing everything on credit cards nationally, the bills are coming in soon and the euphoria will be over. We are exporting our assets to China and India. and importing poverty and crime from Mexico." 9/15/2006

p. "ok, thanks for your efforts, I am totally ok" 9/26/2006

q. "ok, luckily I have made about the same amount I am down trading OTCBB stocks during the same time period but it would be nice to break even if you know what I mean"

10/6/2006

r. "this has gone up steadily every day since **WE** (emphasis added) went short on sept 1, I am not going to have an account left at the rate this is going, especially with what's left of **MY** (emphasis added) account all expiring oct. options. I don't want to lose the whole account, already lost a third" 10/12/2006

s. "The problem is **WE** (emphasis added) have thought the bulls were wrong now for about six (only been doing options for 4 weeks), if they are right one more week my whole damn account is gone! Toast!!!" 10/12/2006

t. "I don't want to lose **MY** whole account....**WE** (emphasis added) have been wrong about the market direction and the strength of the bull market every day now since I opened the account", Cal tells me to sell calls he doesn't want to sweat over the weekend. 10/13/2006 (Friday)

u. "ok, nothing we can do about it now I guess" 10/14/2006

v. ok thanks, I did misunderstand, Keep me posted 10/14/2006

w. "**MY** (emphasis added) account is now 50% gone" (yes, after you forced me out of Options on Friday after-hours). 10/16/2006 9:16 am

x. GET **ME** (emphasis added) OUT NOW!!! **MY** (emphasis added) account is almost gone 10/16/2006 1:37 (strange on 10/16/2006 at 4:52 you said it has 14,500)

y. **MY** (emphasis added) account 10/16/2006 1:48

z. "I guess **WE** keep the nov options." 10/16/2006 2:01

aa. "**MY** (emphasis added) account shows a value of 14,500 right now 10/16/2006 4:52

ab. "FYI, in the same period of time **I** (emphasis added) have made money in **MY** (emphasis added) other accounts on my own" 10/16/2006 4:52

ac. "keep me posted, thanks" 10/16/2006 4:52

ad. "Finally a down day! Have I died and gone to heaven?" 10/17/2006 7:51

ae. "Jensen emails to C.J., yes a down day. To bad your out of all your positions. Qs are up \$.30 (211 X .30 = \$6,330) and the DNA puts are up \$.50 (30 x \$.50 = \$1,500), thus you'd be up 7,830 from where you forced me out right now." 10/17/2006 8:00 a.m.

af. "I know, I pushed the panic button yesterday, you have my permission to come over here and kick my ass." 10/17/2006 8:23 a.m.

aj. "ok, I will do that, I just can't afford to lose **my** (emphasis added) whole account so bear that in mind, thanks" 10/17/2006 1:19 p.m.

ak. "ok" (Cal's reply, after I said anytime you want to shut it down, let me know)

10/17/2006 1:42 PM

al. "ok thanks,.... all I ask is don't toast **my** (emphasis added) account" 10/19/2006 9:45

AM

167. Jensen never did lose or toast the whole account.

168. The majority of the losses in the account were due to C.J.

169. In emails and letter attachments afterward C.J. continues to say;

a. My account

b. I will take some responsibility

c. Cal tries to extort Jensen, saying he will go the State Securities division, “they are ruthless”.

d. C.J. writes to Jensen, “I (emphasis added, no mention about wife) am absolutely not going to take a \$30,000 hit”. (which is a bold faced lie)

170. Jensen calls C.J. on November 30, 2006;

a. C.J. says the Utah State Securities Division is not only crazy ruthless but incompetent.

b. C.J. tells me how he was an expert and summary witness on an options case in the State of Washington and he had to teach the state regulators and testify because all State people are too dumb to understand options.

c. C.J. is clearly trying to extort Jensen to pay.

Below are documents Jensen has and will use if this goes forward;

Jensen has over 100 pages of emails from C.J. immediately before, during the time Jensen had access to the account and within a reasonable time thereafter.

Jensen has several attachments to Emails.

171. C.J. told Jensen, either enter into binding arbitration or else. C. J. offered, I agreed.

C.J. said he couldn't find anybody to do binding arbitration (which means C.J. couldn't find anyone to agree with him).

172. C.J. threatens Jensen with lawsuits again.

173. C.J. goes and complains to the Utah State Securities Division.

174. C.J. broke his contract in item 171.

175. Jensen has letters and/or letter from C.J. and his lawyers threatening lawsuits against Jensen.

173. Jensen requested documents from the Utah State Securities Commission several times verbally and my request for documents provided them by C.J. were denied to Jensen.

174. My lawyer, Wallace Boyack, has an agreement given to C.J. from Boyack before Jensen had access to the account.

175. Jensen has (as does C.J.) the CBOE booklet one must read and acknowledge reading before they can trade options, which C.J. and/or Mrs. C.J. must have acknowledged in writing to Ameritrade receiving, reading and acknowledging understanding.

176. Neither C.J., nor C.J.'s wife nor the Division have provided Jensen with one piece of evidence in this matter, thus I'm sure the evidence should expand substantially.

177. Jensen has telephone records, showing who contacted who and how long we talked.

178. Numerous emails from Velez, stating no securities licenses are needed for you to trade moneys in their account. The web page and information shown thereon at Velez Capital

Management. <http://www.vcmtrading.com/index.php#> Velez does exactly what I did with C.J.

They open up an account in their name and provide traders \$50,000 to start trading. They pay only on gains. Velez takes all losses. No securities licenses are required. If you don't believe me, email them and ask yourself.

179. There is only one person in this entire matter that knew exactly what was going on, regarding, Jensen, Mrs. Cal Jones and C.J. That person is C.J. and only C.J.

AFFIRMATIVE DEFENSES

Respondent, in written answer to the order to show cause filed in the above entitled case, and as required in item c., page 2 of Notice of Agency Action raises but is not limited to the following affirmative defenses;

1. Mr. Jensen denies all allegations set forth in the Order to Show Cause which have not been expressly admitted herein.
2. The Order to Show Cause fails to state a claim against Mr. Jensen under which relief can be granted with respect to Utah Uniform Securities Act Section 61-1-1.
3. The Order to Show Cause fails to state a claim against Mr. Jensen under which relief can be granted with respect to Utah Uniform Securities Act Section 61-1-3.
4. The Order to Show Cause fails to state a claim against Mr. Jensen under which relief can be granted with respect to Utah Uniform Securities Act Section 61-1-2.
5. This Action is barred by the Statue of Limitations.
6. Assumption of risk by C.J. and/or C.J.'s wife.
7. This action is barred for Lack of Jurisdiction or authority by the Utah Division of Securities, including but not limited to the following;
 - a. Equity puts and calls are exempt from Utah Law
 - b. Equity options aren't defined as a Security in Utah Law
 - c. Equity options aren't regulated by Utah Securities Division.
 - d. Exemption for accountants from
 - e. Jensen never held himself out for Investment advise.
 - f. Jensen never had stationary as an investment advisor.
 - g. Jensen never had business cards as an investment advisor.
 - h. Jensen did not have a place of business for Investment advise.
 - i. Jensen traded one account, which was alleged to be C.J.'s for about six weeks.
 - j. The amount in the C.J.'s account was \$30,000.

- k. The \$30,000 in the C.J.'s account was less than 10% of Jones' current assets.
 - l. The \$30,000 in C.J.'s account was less than 3% of Jones' net worth.
 - m. C.J. executed trades and insisted trades be made for more than half the losses alleged.
 - n. Jensen never did "toast" "the account".
7. Contributory negligence.
 8. Contract-specification defense.
 9. Contractual provision defense.
 10. Lack of Jurisdiction by Division.
 11. Contract was never executed.
 12. There is no victim complainant in this matter.
 13. Mr. Jensen exempt by Utah statutes.
 14. Mr. Jensen exempt by definition of a Utah Investment Advisor or representative.
 15. Burden of proof rests with Division and does not meet preponderance of the evidence.
 16. Lack of specificity in request for relief. General and broad allegations without proof.
 17. Fine of \$5,000? Vague, general, punitive, cruel, unusual and/or unreasonable and no logic as to where such came from.
 18. C.J. who filed the complaint and has initiated this complaint comes with unclean hands.
 - a. Involved in tax scheme and international stock scam.
 - b. C.J. represented fraudulently to Jensen on numerous occasions the account being trades was C.J.'s account.
 - c. C.J. pretends trading was only done by Jensen without C.J. knowledge and consent. The numerous emails clearly show otherwise.
 - d. In order to get a Margin account and an options trading account requires certain

suitability standards which C.J.'s wife did not have. Think the account of Mrs. C.J. has misrepresentations in it?

e. TD Ameritrade asks one when opening an account if any others are going to trade their account. If one answers affirmatively, such information must be provided to TD Ameritrade. Do you think either C.J. or Mrs. C.J. provided such information about Jensen?

f. C.J. was the President and principal of Concilium Merchant Capital, which was a spin-off from a Merrill Scott tax and investment scheme, which was closed down by the SEC and IRS.

g. C.J. continually acknowledges and compliments Jensen's actions.

19. How can the Utah State Securities Division initiate an action, when the person who's account it is who has allegedly been damaged or harmed, hasn't made a complaint?

20. Legality of the parties, contract alleged C.J. and Utah State Securities people say there was agreement between C.J. and Jensen. Since when did C.J. have the right or the authority to enter into agreements for his wife's account?

21. Contract Law

a. C.J. and the State Securities allege there was a contract between Jensen and C.J.

1. How can C.J. enter into a contract for his wife's account?
2. The Utah State Securities Division in their alleged facts contradict themselves.
3. How can there be a contract when there is no consideration?

b. C.J. could have at any time;

1. Told Jensen to quit trading
2. Changed the password on the account.

c. Respondent never received any consideration.

d. Contract law clearly shows there was NO contract between Jensen and C.J. or between Jensen and C.J.'s wife.

e. How can one have a contract with someone when they have never met nor spoken to them?

22. Failure of consideration.

23. Legality of the parties involved.

24. Offer but no acceptance.

25. Fraud committed by C.J. and/or C.J.'s wife.

26. Laches.

27. Waivers.

28. Corroboration is required to prove a fact is true. Division has made none.

29. Burden of proof rests upon the Utah Division of Securities. Such burden has not been met.

30. Relying on advice and consent from Securities Counsel.

31. Relying on written contract prepared from Securities Counsel.

32. Lack of Venue, including but not limited to;

a. Account was opened in Omaha, Nebraska.

b. Moneys were transferred to Omaha, Nebraska to fund "the account".

c. Books and records of "the account" are in Omaha, Nebraska.

d. All trades were made in Omaha, Nebraska.

e. The account was opened on Omaha, Nebraska.

33. How can an unexecuted agreement and by Division's's own admissions is in conflict as to the facts be deemed a valid agreement?

34. Statute of frauds, makes the “alleged” contract voidable.
35. Wrong respondent. C.J. was the person responsible for and who had total custody and control of the account and total knowledge of what was transpiring.
36. Lack of Jurisdiction, including but not limited to;
 - a. Equity options are regulated and enforced by the CBOE.
 - b. Equity put options are exempt from Utah law.
 - c. Equity put options are not defined as a security in Utah.
37. Unsubstantiated Claims, with the burden of proof resting with the Division.
38. Vague Claims, while the burden of proof rests with the Utah Division of Securities.
39. Ambiguous Claims from the Utah Division of Securities.
40. Claims made herein are based upon hearsay, thus inadmissible.
41. No husband wife privilege waivers.
42. Res judicata.
43. Mistake of facts.
44. Duress.
45. Estoppel.
46. Laches
47. No victim, no case.
48. The fact that there are major investors on the internet (Velez) who will let traders trade their money in their account without any securities licenses is proof, there is nothing illegal, Jensen did. I asked them specifically, that question.
49. C.J. broke his contract of going forward with binding arbitration, in lieu of or else. This

matter with Division is or else and is a violation of C.J.'s contract with Jensen.

50. Mr. Jensen reserves the right to assert any other affirmative defenses that discovery reveals applicable to this Order to show cause. Especially since the Division of Securities has provided Mr. Jensen with no documents, records or the complaint despite several requests for such.

PRAYER

Wherefore, it is prayed that none of the relief sought in the order to show cause be denied and this case be dismissed with prejudice as soon as is practicable in Respondent's favor.

COUNTERCLAIMS

Respondent, David Jensen, wants the Division to know, if Jensen is in any way damaged from this frivolous action and wrongly alleged Mr. Jensen is not waiving any of his rights to file an action against Utah and/or the Utah Securities Division and their personnel regarding this matter, by the filing of the above information.



David S. Jensen, Respondent

Dated 9/4/2009

A copy was mailed to Charles M. Lyons
Securities Analyst
Utah Division of Securities
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84114-6760