

Division of Securities
Utah Department of Commerce
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**RIDGELAND WYOMING, INC.,
VYSN CAPITAL, LLC,
BRYAN R. FARRIS,
SHAWN BLAINE SMART, and**

Respondents.

**OBJECTION TO DEPOSITIONS and
MOTION TO STRIKE**

**Docket No. SD-11-0052
Docket No. SD-11-0053
Docket No. SD-11-0054
Docket No. SD-11-0055**

The State of Utah, Division of Securities (Division), objects to depositions scheduled for April 11 and 12, 2012, by Respondents VYSN Capital, LLC, and Shawn Blaine Smart. The Division requests that this tribunal strike the depositions and order that they cannot be conducted unless and until the requirements of Utah Rule of Administrative Procedure 151-4-602 are met.

On February 22, 2012, these respondents requested subpoenas scheduling deposition for April 11 and 12, and this tribunal signed them the same day. The Division communicated to counsel for Respondents VYSN and Smart that it would not seek to quash the subpoenas, but that it would object to the scheduling of the depositions. This communication was based on the fact that the subpoenas had already been signed by this tribunal.

The Division objects to the scheduling of the depositions because they do not comply with the requirements of R151-4-602. The rule requires in part “[b]efore a party may request leave to take a party’s deposition, the party must first make diligent efforts to obtain discovery from that person by means of an informal interview.” R151-4-602(1).

First, the above-referenced respondents have not requested leave to take a deposition. The Division interprets “leave” to require a written motion. See, R151-4-301(2) (“All motions shall be filed in writing . . .”). Second, the Division is unaware of any effort of any kind by the respondents to obtain discovery by informal interviews. Further, respondents have not demonstrated that they have complied with the requirements of R151-4-602(2)(a-d).

For these reasons, the Division requests that an order issue that depositions may not be scheduled by the parties absent compliance with R151-4-602, and that the depositions scheduled for April 11 and 12, 2012 may not proceed without compliance with the rule.

Respectfully submitted this 23rd day of February, 2012.

D. Scott Davis
Assistant Attorney General
for the Utah Securities Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I personally served a true and correct copy of the foregoing on this 23rd day of February, 2012 to the following:

Mark D. Stubbs Joseph M. Hepworth FILLMORE SPENCER LLC 3301 N. University Ave. Provo, Utah 84604	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input checked="" type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: email mstubbs@fslaw.com , jhepworth@fslaw.com
Mark W. Pugsley RAY QUINNEY & NEBEKER 36 South State Street, 14 th Floor Salt Lake City, Utah 84145-0385	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input checked="" type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: email mpugsley@rqn.com


