
**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 and
SHAWN BLAIN SMART,
Respondents.

ORDER DENYING MOTION TO VACATE
SCHEDULING ORDER and ORDER
MODIFYING SCHEDULING ORDER

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

This matter is before the Division of Securities (hereinafter "Division") on Respondents' VYSN Capital, LLC (hereinafter "VYSN") and Shawn Blain Smart (hereinafter "Smart") Motion to Vacate Scheduling Order and for Scheduling Conference, in conjunction with the Division's Motion to Adjust Pretrial Deadlines. The Presiding Officer has considered the parties' arguments and, for the reasons discussed fully below, will deny the Motion to Vacate the Scheduling Order and will grant the Motion to Adjust Pretrial Deadlines.

PRODEDURAL BACKGROUND

On April 30, 2012, Respondents VYSN and Smart filed a Motion to Vacate Scheduling Order and for Scheduling Conference. The Division responded to Respondents' motion on May 2, 2012. No reply to the Division's response was filed.

The Division filed a Motion to Extend Witness and Exhibit Lists One Day on April 30, 2012. No response to the Division's motion was filed.

The Division filed a Motion for Protective Order and to Adjust Pretrial Deadlines on May 7, 2012. No response to the Division's motion was filed.

DISCUSSION

Respondent's Motion to Vacate Scheduling Order and for Scheduling Conference will be denied because Respondents have not made reasonable and prudent use of the discovery time that has already been available since the proceeding commenced. The scheduling order entered in this matter on February 15, 2012 should be modified to allow the parties to complete preparation for the trial date scheduled in this matter on July 19-20, 2012.

Respondents Have Not Made Use of Discovery Time Available

Utah Admin. Code R151-4-508(2)(c) sets forth the factors that the presiding officer shall consider in determining whether a party has demonstrated good cause to extend the time period for discovery. One of those factors is "whether that party has made reasonable and prudent use of the discovery time that has already been available to the party since the proceeding commenced." Utah Admin. Code R151-4-508(2)(c)(ii).

This proceeding was initially commenced on July 12, 2011. A stay was granted on September 23, 2011 because parallel criminal proceedings were being contemplated by the Attorney General of the State of Utah. The stay was lifted on February 15, 2012. At a scheduling conference conducted on February 14, 2012, a deadline for completion of discovery and exchange of evidence was established for May 1, 2012. Respondents served subpoenas requesting production of documents from affected investors on February 26, 2012. The affected investors moved to quash the subpoenas on March 9, 2012. Respondents did not respond to the

motion to quash their subpoenas until April 16, 2012, thirty-eight (38) days after the motion to quash was filed.

Utah Admin. Code R151-4-303(2)(b) provides that "memoranda or affidavits in response to a motion shall be filed no later than 10 days after service of the motion." Allowing an additional twenty-eight (28) days to lapse without moving forward on discovery matters does not demonstrate a reasonable and prudent use of the discovery time by Respondents and, thus, does not warrant vacating the scheduling order.

Scheduling Order Should Be Modified to Allow All Parties To Prepare for Trial

All parties to this matter have requested modifications to the scheduling order to allow sufficient time to adequately prepare for the trial scheduled on July 19-20, 2012. Good cause has been demonstrated by both parties, therefore, the scheduling order shall be modified as follows:

1. Parties shall provide witness and exhibit lists to opposing parties and the Presiding Officer by June 4, 2012.
2. Each side shall also identify any expert witnesses it intends to use and provide the other side with a copy of the expert's report by June 4, 2012.

CONCLUSION AND ORDER

Based on the foregoing discussion, the Presiding Officer orders as follows:

IT IS HEREBY ORDERED, pursuant to Utah Admin. Code R151-4-508, Respondents' Motion to Vacate Order and for Scheduling Conference is denied.

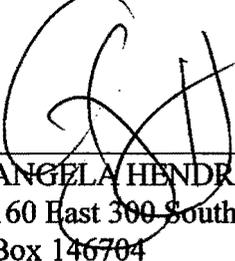
IT IS HEREBY ORDERED, pursuant to Utah Admin. Code R151-4-504(b)(i), that the Scheduling Order is modified as set forth above.

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

Agency review of this order may be obtained by filing a request for agency review with the Executive Director, Department of Commerce, 160 East 300 South, P.O. Box 146704, Salt Lake City, Utah 84114-6701, within thirty (30) days after the date of this order. The laws and rules governing agency review are found in Title 63G, Chapter 4 of the Utah Code and R151-4 of the Utah Administrative Code.

Dated this 17 day of May, 2012.

UTAH DIVISION OF CONSUMER PROTECTION



ANGELA HENDRICKS, PRESIDING OFFICER
160 East 300 South
Box 146704
Salt Lake City, Utah 84114
Telephone No. (801) 530-6035

CERTIFICATE OF SERVICE

I certify that I have this 17 day of ^{May}~~April~~, 2012 served the foregoing order on the parties in this proceeding by mailing a copy, properly addressed by first class mail with postage prepaid, to:

JOSEPH M. HEPWORTH
FILLMORE SPENCER, LLC
3301 N. UNIVERSITY AVE.
PROVO, UT 84604

MARK PUGSLEY
RAY QUINNEY & NEBEKER, PC
36 S. STATE STREET, SUITE 1400
SALT LAKE CITY, UT 84111

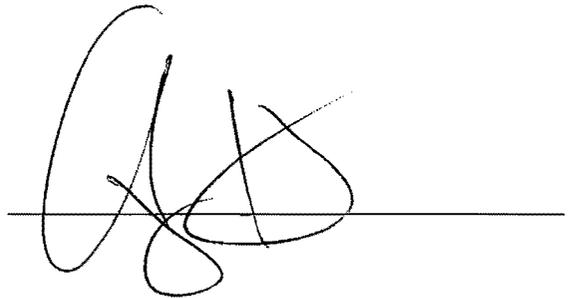
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1845 NORTH 320 EAST
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SHAWN BLAINE SMART
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And by hand-delivery to:

D. Scott Davis
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160 East 300 South, 5th floor
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Counsel for Division of Securities

Thomas Brady
Division of Securities
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Salt Lake City, UT 84111

A handwritten signature in black ink, appearing to be 'T. Brady', is written over a horizontal line.