

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: 801 530-6600

---

**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,  
GARY FRANK LAWYER**

**Respondents.**

**REPLY TO OPPOSITION TO MOTION  
TO QUASH AND FOR A PROTECTIVE  
ORDER and RESPONSE TO MOTION  
TO COMPEL PRODUCTION OF  
DOCUMENTS**

**Docket No. SD-11-0052  
Docket No. SD-11-0053  
Docket No. SD-11-0054  
Docket No. SD-11-0055  
Docket No. SD-11-0056**

---

The State of Utah, Department of Commerce, Securities Division (Division), hereby replies to VYSN's and Shawn Blaine Smart's (hereafter "Respondents") Opposition to Motion to Quash and for a Protective Order, and responds to the Respondents' Motion to Compel Production of Documents.

**I. PROCEDURAL BACKGROUND**

"Third-Parties" Ross Jardine and Michael Gillespie<sup>1</sup> filed a Motion to Quash and for Protective Order on or about March 9, 2012. That motion was subsequently withdrawn by a pleading served on March 10, 2012. An Amended Motion to Quash and for Protective Order

---

<sup>1</sup>Jardine and Gillespie are investors in the transactions that are the subject matter of this case, and witnesses in this action.

was filed on or about March 13, 2012.

The Division filed a Response to Amended Motion to Quash and for Protective Order, and Motion to Modify Subpoenas on March 20, 2012. Respondents filed their Opposition to Motion to Quash and for a Protective Order and Motion to Compel Production fo (sic) Documents on or about April 16, 2012.

## II. ARGUMENT

### A. Respondents' Opposition is untimely and should be stricken.

Utah Rule of Administrative Procedure (hereafter "Administrative Rule") R151-4-303(2)(b) provides "memoranda or affidavits in response to a motion shall be filed no later than 10 days after service of the motion[.]" Jardine's and Gillespie's Amended Motion to Quash and for Protective Order filed and served by U.S. Mail and email on or about March 13, 2012.

Administrative Rule R151-4-402(2)(b) provides that "[s]ervice by mail is complete upon mailing." The Administrative Rules permit service by "electronic means" and provide that service by such means is complete upon transmission. R151-4-402(2)(c) and (d).

Respondents' Opposition was due, under the Rules on March 23, 2012. If this tribunal allows an additional three days for mailing, the Opposition was due March 26, 2012.

Because the Respondents' Opposition is untimely under the Rules, because it was not filed until April 16, 2012, it should not be considered by this tribunal, and should be stricken.

### B. Respondents' Motion to Compel Production of Documents is Premature.<sup>2</sup>

Respondents' Opposition to the Amended Motion to Quash and for Protective Order was untimely and should not be considered. Even if this tribunal considers the Opposition, there is a

---

<sup>2</sup>Although Respondents' pleading states it is a motion to compel, there is nothing substantive in the pleading that specifically addresses why they are entitled to such relief.

pending motion to quash the subpoenas that has not been ruled on or resolved. Furthermore, the Division filed a Motion to Modify Subpoenas that has not been responded to nor ruled upon, thus a motion to compel at this point is premature until the investors' and the Division's motions are resolved.

C. Respondents have not responded to or addressed the Division's Response to Amended Motion to Quash and for Protective Order, or its Motion to Modify Subpoenas.

The Division responded to Jardine's and Gillespie's motion by filing a Response to Amended Motion to Quash and for Protective Order, and Motion to Modify Subpoena on or about March 20, 2012. In that pleading, the Division agreed with Jardine's and Gillespie's arguments that the subpoenas were "oppressive, unreasonable, and overbroad."

The Division agrees that if investors know their personal, business, financial and tax records may be accessed and be at issue in the Division's administrative cases, that may very well "chill" or inhibit investors from complaining to the Division regarding violation of securities laws by alleged and prospective respondents.

The Division notes that Respondents' Response does not address the Division's arguments that the investors' personal and business tax and financial information, or other business records not related to this case, has no relevance to whether or not Respondents violated Utah securities laws as alleged in the Amended Order to Show Cause in this matter.

Whether or not the investors were "experienced," whether they suffered a "substantial loss," or any other statements attributed to the investors, are irrelevant to the allegations in the Amended Order to Show Cause that the Respondents violated Utah securities laws. The statements alleged to have been made by any investors may go to the weight and credibility of their testimony, but Respondents have failed to show how the subpoenaed information is relevant

to the allegations in the Amended Order to Show Cause.

Respondents have also failed to respond to the Division's Motion to Modify Subpoenas. Because there has been no response or opposition filed to that motion (which were due March 30), it should be granted.

Respectfully submitted this 17<sup>th</sup> day of April, 2012.

By:



D. Scott Davis  
D. Scott Davis  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I personally served a true and correct copy of the foregoing Reply to Opposition to Motion to Quash and for Protective Order and Motion to Compel Production of Documents on this 17<sup>th</sup> day of April, 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 type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>mstubbs@fslaw.com</u>
Mark W. Pugsley RAY QUINNEY & NEBEKER 36 South State Street, 14 <sup>th</sup> Floor Salt Lake City, Utah 84145-0385	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>mpugsley@rqn.com</u>
Blair R. Jackson Phillip L. Martin Invictus Law, PLLC 1250 East 200 South, Suite 2E Lehi, Utah 84043	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>philip@invictuspc.com</u>

D. Scott Davis

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: 801 530-6600

---

**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,  
GARY FRANK LAWYER**

**Respondents.**

**REQUEST TO SUBMIT FOR DECISION**

**Docket No. SD-11-0052  
Docket No. SD-11-0053  
Docket No. SD-11-0054  
Docket No. SD-11-0055  
Docket No. SD-11-0056**

---

The State of Utah, Department of Commerce, Securities Division (Division), hereby submits for decision its Motion to Modify Subpoenas filed and served on March 20, 2012. No response or opposition to the motion has been filed, and it is now ready for submission to this tribunal for ruling. Since no response or opposition has been filed, the relief requested in the motion should be granted.

Respectfully submitted this 17<sup>th</sup> day of April, 2012.

By:



---

D. Scott Davis  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I personally served a true and correct copy of the foregoing

Request to Submit for Decision on this 17<sup>th</sup> day of April, 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 type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>mstubbs@fslaw.com</u>
Mark W. Pugsley RAY QUINNEY & NEBEKER 36 South State Street, 14 <sup>th</sup> Floor Salt Lake City, Utah 84145-0385	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>mpugsley@rqn.com</u>
Blair R. Jackson Phillip L. Martin Invictus Law, PLLC 1250 East 200 South, Suite 2E Lehi, Utah 84043	Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: <u>philip@invictuspc.com</u>

D. E. Martin