

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

Oklahoma Department of Securities )  
ex rel. Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Robert E. Tucker, and )  
Keystone Equity Group, Inc., )  
 )  
Defendants. )

SEP 27 2010

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
DEPUTY

Case No. CJ-2010-2525

**PLAINTIFF'S MOTION, AND BRIEF IN SUPPORT, TO COMPEL ANSWERS TO  
INTERROGATORIES AND PRODUCTION OF DOCUMENTS AND SANCTIONS**

The Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator, ("Department"), respectfully moves the Court for an order, pursuant to 12 O.S. § 3237(A), compelling Robert E. Tucker and Keystone Equity Group, Inc., (collectively, "Defendants"), to answer the interrogatories and produce documents in accordance with *Plaintiff's First Set of Requests for Admissions, Interrogatories and Document Requests to Defendants Robert E. Tucker and Keystone Equity Group, Inc.* ("Request"), a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference. In addition, the Department moves the Court for an order, pursuant to 12 O.S. §§ 3237(A)(4) and 3237(E), imposing sanctions on Defendants for failing to serve answers or objections after proper service of interrogatories.

The Department alleges and states:

1. On June 29, 2010, the Request was mailed by first class mail to Defendants' counsel, Gerald J. Lovoi.

2. The Department received Defendants' responses to the requests for admissions contained in the Request on approximately July 29, 2010.

3. Defendants failed to respond to the interrogatories or document production portions of the Request within 30 days of service pursuant to 12 O.S. § 3233 and § 3234.

4. The Department attempted to contact Defendants' counsel via telephone on August 9, 2010, regarding this matter. There was no answer to the call nor an opportunity to leave a message as the voice message box at this number was full.

5. In an attempt to ensure contact with Defendants, the Department sent a demand letter, dated August 16, 2010, a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference, delivered via certified mail to Defendants' counsel and signed for on August 19, 2010 by the same. The return receipt is attached hereto as Exhibit 3. The Department has not received a response to the letter.

6. Counsel for the Department contacted Defendants' attorney on Friday, September 10, 2010. Defendants' attorney stated that he was almost finished with Defendants' responses to the interrogatories and document requests and would hand deliver them to the Department on Tuesday, September 14, 2010. Counsel for the Department requested that the responses be delivered to the Department no later than Friday, September 17, 2010.

7. To date, the Department has not received Defendants' responses to the interrogatories and document requests contained in the Request.

8. The Department has in good faith attempted to confer by telephone and by certified mail with the party failing to make the discovery in an effort to secure the information and material without court action. Defendants have failed to participate in discovery in good faith pursuant to the requirements set forth in the Oklahoma Discovery Code.

## BRIEF IN SUPPORT

Sanctions for abuses of the discovery process, such as failure to respond, are authorized in this state pursuant to 12 O.S. § 3237; a prerequisite to sanctions, in most cases, is the violation of an order issued by a court pursuant to a motion to compel. *Barnett v. Simmons*, 2008 OK 100, ¶14, 197 P.3d 12, 18 (quoting *Helton v. Coleman*, 1991 OK 43, ¶ 11, 811 P.2d 100, 101). However, in accordance with 12 O.S. § 3237(E), when a party fails to serve answers to interrogatories or requests for inspection, an order sanctioning a failure to respond is authorized without a violation of a prerequisite order issued pursuant to a motion to compel.

As stated above, the Defendants failed to answer the interrogatories and document requests. No material or substantial justification has ever been made to the Department for Defendants' non-performance.

**WHEREFORE**, the Department requests an order issued by the Court compelling Defendants to respond wholly and completely to the Request and to pay costs and attorney's fees to the Department for its time, effort and expense in obtaining responses to the Request in accordance with 12 O.S. §§ 3237(A)(4) and 3237(E).

Respectfully submitted,



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Melanie Hall, OBA # 1209  
Terra Shamas Bonnell, OBA # 20838  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, Oklahoma 73102  
Telephone (405) 280-7700  
Fax (405) 280-7742

CERTIFICATE OF MAILING

The undersigned certifies that on the 27<sup>th</sup> day of September, 2010, a true and correct copy of the foregoing was mailed by certified mail addressed to:

Gerald J. Lovoi, Esq.  
616 S. Boston #403  
Tulsa, OK 74119



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Terra Shamas Bonnell

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA**

OKLAHOMA DEPARTMENT OF )  
SECURITIES, *ex. rel.* Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Robert E. Tucker, and )  
Keystone Equity Group, Inc., )  
 )  
Defendants. )

Case No. CJ-2010-2525

**PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS, INTERROGATORIES  
AND DOCUMENT REQUESTS TO DEFENDANTS ROBERT E. TUCKER AND  
KEYSTONE EQUITY GROUP, INC.**

TO: Robert E. Tucker  
Keystone Equity Group, Inc.  
c/o Gerald J. Lovoi  
324 South Main #900  
Tulsa, Oklahoma 74103

Please notice that, pursuant to 12 O.S. § 3233, 3234 and 3236 the Plaintiff, Oklahoma Department of Securities (“Department”) *ex rel.* Irving L. Faught, Administrator, hereby submits the following requests for admissions (“Requests for Admissions”), interrogatories (“Interrogatories”), and requests for the production and/or inspection of documents (“Document Requests”) to Defendants Robert E. Tucker (“Tucker”) and Keystone Equity Group, Inc., (“KEG”). Tucker and KEG shall serve their answers to the Requests for Admissions and Interrogatories and produce Document Requests herein before the Administrator of the Oklahoma Department of Securities, or his designated representative, at 120 North Robinson, First National Center, Suite 860, Oklahoma City, County of Oklahoma, State of Oklahoma, **WITHIN THIRTY (30) DAYS** after the service of this discovery request.

**EXHIBIT**  
1

## INSTRUCTIONS

1. The discovery requested herein is directed toward all information known or available to Tucker and KEG (through its officers, directors, employees, agents, or attorneys) including information contained in the records and documents in its custody or control or available to it upon reasonable inquiry.

2. Where a request for admission, interrogatory or document cannot be answered in full, they shall be answered as completely as possible. Incomplete answers shall be accompanied by a specification of the reasons for the incompleteness of the answer and of whatever knowledge, information or belief is possessed with respect to each unanswered or incompletely answered discovery request. If defendants believe that other persons may be able to provide additional information responsive to the interrogatory or document request, the answer shall include an identification of each such person.

3. Unless otherwise specified (as, for example, by use of the word "ever" or the phrase "at any time" or "of any date"), and without regard to the tenses used, any Request for Admission, Document Request and/or Interrogatory shall cover the period from **January 2007 to the present**. To the extent that any answer varies with respect to any part of that period, a separate answer is required for each such part with the pertinent dates indicated.

4. Unless otherwise specified, any word used herein in the singular is also to be construed in the plural and vice versa and any use of the conjunctive is also to be construed in the disjunctive and vice versa. Any use of "any" is also to be construed as "all" and vice versa, and any use of "each" is also to be construed as "every" and vice versa.

5. These requests for interrogatories and documents shall be deemed continuing pursuant to 12 O.S. § 3226(E) requiring amended answers if you obtain information on the basis

of which you know that any response made was incorrect when made or, although correct when made, is no longer true.

6. As to every Request for Admissions, Document Request and/or Interrogatory which you fail to answer in whole or in part on the ground that the information sought involves a document or oral communication which you contend to be privileged, or otherwise protected from disclosure, state in detail:

- a. the portion of the request to which the response is claimed to be privileged;
- b. the identification of the document, as defined below;
- c. the general subject matter of the document or communication;
- d. the author and all recipients of any document, and the persons involved in any oral communication;
- e. the identity of any other persons having knowledge of the document or communication involved;
- f. the nature of the privilege claimed; and
- g. every fact on which you base the claim of privilege or that the information need not be disclosed.

7. Any reference to a corporate or business entity shall include references to any employee, principal, or agent of such business or entity.

8. If any document responsive to this request was, but is no longer in your possession, custody, control or in existence, state whether it (1) is missing or lost; (2) has been destroyed; (3) has been transferred voluntarily or involuntarily to others; or (4) has been

otherwise disposed of, and in each instance explain the circumstances surrounding the authorization of such disposition and state the date or approximate date thereof.

### DEFINITIONS

1. "You" and "your" include Tucker and KEG and each of its subsidiaries, divisions, and affiliated entities, whether wholly owned or not, past and present, and their officers, directors, agents, employees, attorneys, investigators, or other representatives.

2. "Person(s)" shall refer to any natural person, association, partnership, limited liability company, corporation, business trust, estate, trust, joint venture, or other form of business entity, or any government or any agency, subdivision or instrumentality thereof.

3. "Document(s)" or "writing(s)" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation; any invoice, bill, order form, receipt, financial statement, account statement, accounting entry, diary, written material, book, file, note, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting), calendar, telex, telegram, cable, report, record, contract, agreement, study, handwritten note, working paper, chart, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced. "Document(s)" or "writing" shall also mean all computer generated data including, but not limited to, spreadsheets, databases, graphics, charts and presentations, electronic mail messages, electronic facsimiles, scanned material, or all computer generated data stored on removable storage media, including, but not limited to, 3.5" and 5.25" floppy disks, rewritable optical disks, cd-recordable disks, flash memory, removable hard drives, backup and

archive tape cartridges, reels and cassettes, or fixed storage media, including, but not limited to, internal hard drives, external hard drives, and Local Area Network drives.

4. "Identification," "identify," or "identity," when used in reference to (a) a natural individual, requires you to state his or her full name and residential and business addresses and telephone numbers; (b) a firm, association, partnership, limited liability company, corporation or other form of business entity, requires you to state its full name and any names under which it does business, its state of organization, the address of its principal place of business, and the addresses of all of its offices; (c) a business, requires you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those businesses, and the identity of the person or persons who own, operate, control the business; (d) a communication, requires you, if any part of the communication was written, to identify the document(s) which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place, and substance of the communication.

5. "Relation," "pertaining to," "relating to," "related to," or "related" mean pertaining in any way to, referring to, reflecting, recording, memorializing, mentioning, constituting, describing, or concerning, directly or indirectly.

#### **REQUEST FOR ADMISSIONS**

The Department requests that you admit or deny the following:

**Request for Admission No. 1:** You are a resident of Tulsa, Oklahoma.

**Request for Admission No. 2:** You are the sole owner of KEG.

**Request for Admission No. 3:** You control KEG.

**Request for Admission No. 4:** You issued Commitment Letters to Fund (“Commitment Letters”) for loan amounts as large as \$550,000,000.

**Request for Admission No. 5:** You represented to “Borrowers”, and/or potential “Borrowers”, that the funding sources for Commitment Letters would be pension, hedge funds and/or other such financial entities.

**Request for Admission No. 6:** You received Commitment Fees (“Fees”) from “Borrowers” as consideration for Commitment Letters.

**Request for Admission No. 7:** The Commitment Letters are contractual obligations that contemplate a flow of funds in the future.

**Request for Admission No. 8:** You represented yourself to “Borrowers” as successful in the business and finance world with a track record of prior closings.

**Request for Admission No. 9:** You purchased two (2) BMW vehicles with Fees paid by “Borrowers”.

**Request for Admission No. 10:** The BMWs were purchased for personal use.

**Request for Admission No. 11:** You transferred Fees to your personal banking account from KEG’s business banking account.

**Request for Admission No. 12:** You did not use the Fees for any due diligence in connection with Commitment Letters.

**Request for Admission No. 13:** You offered and sold Commitment Letters in and/or from Oklahoma.

**Request for Admission No. 14:** You are not registered in any capacity under the Act.

**Request for Admission No. 15:** “Borrowers” have not received funding pursuant to, or in accordance with, the Commitment Letters.

**Request for Admission No. 16:** You failed to provide "Borrowers" evidence of your ability to perform in accordance with Commitment Letters.

**Request for Admission No. 17:** You have not refunded any Fees pursuant to refund requests made by "Borrowers".

**Request for Admission No. 18:** You failed to inform "Borrowers" of your inability to provide funding in accordance with current and prior Commitment Letters during any stage of communications prior to, or contemporaneous with, Commitment Letter negotiations.

**Request for Admission No. 19:** You failed to inform "Borrowers" of your criminal record prior to, or contemporaneous with, Commitment Letter negotiations.

**Request for Admission No. 20:** KEG's due diligence of all "Borrowers" was satisfied in accordance, and in conformance with, Commitment Letters.

### **INTERROGATORIES**

**Interrogatory No. 1:** For each and every request for admission in which you provide anything other than an unqualified admission, state all facts upon which you base your response.

**Interrogatory No. 2:** How many Commitment Letters were issued by you, at any time, and to whom?

**Interrogatory No. 3:** Identify Carolyn Porritt.

**Interrogatory No. 4:** Identify Arthur and Rebecca Bogan.

**Interrogatory No. 5:** What was the nature of Carolyn Porritt's deposit, in the amount of \$5,000, into KEG's bank account on March 3, 2009?

**Interrogatory No. 6:** What was the nature of the outgoing wire transfer from KEG's bank account on December 18, 2008, to Arthur and Rebecca Bogan in the amount of \$2,400?

**Interrogatory No. 7:** Has Roger Clemmons been employed by KEG at any time; if so, when?

**Interrogatory No. 8:** Identify Marvin Gibbons and Ron Cremeney, in relation to the New Environmental Solutions Commitment Letter.

**Interrogatory No. 9:** Identify Mark O'Connor.

**Interrogatory No. 10:** Identify Terry Stacey's mother.

**Interrogatory No. 11:** Identify Terry Stacey's landlord at the time of his death.

**Interrogatory No. 12:** Identify Scott Balice, in relation to the Providence Energy Group Commitment Letter.

**Interrogatory No. 13:** Identify Mike Kolenburg, in relation to the Affinity Marketing Limited Commitment Letter.

#### **DOCUMENTS REQUESTED**

**Document Request No. 1:** All contracts, undertakings, memorandums of understanding and/or other agreements between, or among, you, Solice and/or Macro Group including, but not limited to, all agreements by Solice and/or Macro Group to acquire an ownership interest in KEG.

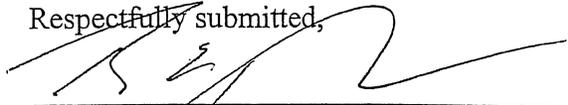
**Document Request No. 2:** All documents relating to an assignment of a Commitment Letter by KEG to any third party.

**Document Request No. 3:** All Commitment Letters which you received an actual Fee.

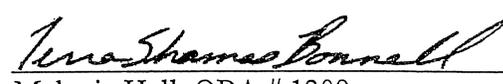
**Document Request No. 4:** All documents that relate to Commitment Letters in which you received Fees and that have not already been provided to the Department.

Respectfully submitted,

By:

  
Robert Fagnant  
Licensed Legal Intern

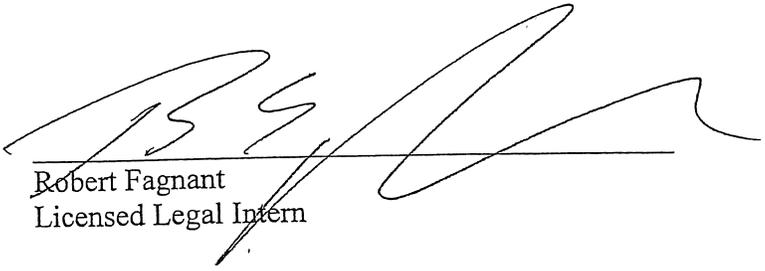
By:

  
Melanie Hall, OBA # 1209  
Terra Shamas Bonnell, OBA # 20838  
Oklahoma Department of Securities  
120 North Robinson Avenue, Suite 860  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 280-7700  
Facsimile: (405) 280-7742

CERTIFICATE OF MAILING

The undersigned certifies that on the 29th day of June, 2010, a true and correct copy of the foregoing was mailed by first class mail, with postage prepaid thereon, addressed to:

Gerald J. Lovoi  
324 S. Main #900  
Tulsa, OK 74103



Robert Fagnant  
Licensed Legal Intern



IRVING L. FAUGHT  
ADMINISTRATOR

BRAD HENRY  
GOVERNOR

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES

August 16, 2010

Gerald Lovoi  
616 S. Boston #403  
Tulsa, OK 74119

RE: *Plaintiff's First Set of Requests for Admissions, Interrogatories and Document Requests to Defendants Robert E. Tucker and Keystone Equity Group, Inc.*

Case No. CJ-2010-2525

Mr. Lovoi,

The Oklahoma Department of Securities ("Department") originally requested discovery pursuant to 12 O.S. § 3233, 3234 and 3236 via *Plaintiff's First Set of Requests for Admissions, Interrogatories and Document Requests to Defendants Robert E. Tucker and Keystone Equity Group, Inc.* (the "Request") sent by first class mail to your office on June 29, 2010. In accordance with 12 O.S. § 3234, a party upon whom such a request is served shall serve a written response within thirty (30) days after service of the request.

On July 27, 2010, the Department received from your office *Defendant's Response to Requests for Admissions Submitted by the Plaintiff*. To date, the Department has not received a written response to the interrogatories portion of the Request, nor any production pursuant to the document request portion.

A phone call was placed to your office, at (918) 622-0031, on August 9, 2010, regarding this matter. There was no answer to the call nor an opportunity to leave a message as the voice message box at this number was full.

**Please produce the requested information and documents and/or contact the Department immediately.** Failure to timely respond will result in a formal action by the Department to the District Court of Oklahoma County.

Sincerely,

  
Rob Fagnant  
Legal Intern  
Enforcement Division

EXHIBIT

2

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 16 day of August, 2010, a true and correct copy of the above and foregoing letter was mailed by certified mail, return receipt requested, with postage prepaid thereon, addressed to:

Gerald Lovoi  
616 S. Boston #403  
Tulsa, OK 74119

*Brenda London*

\_\_\_\_\_  
Brenda London  
Paralegal

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)**

7000 0520 0022 7149 5798

ltr 09-135 RF

Postage	\$ 44	8-17-10  Postmark Here
Certified Fee	280	
Return Receipt Fee (Endorsement Required)	230	
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	<b>\$ 5.54</b>	

Gerald Lovoi  
616 S. Boston #403  
Tulsa, OK 74119.

(by mailer)

for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gerald Lovoi  
616 S. Boston #403  
Tulsa, OK 74119

ltr 09-135 RF

2. Article Number (Copy from service label)

7000 0520 0022 7149 5798

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) **G LOVOI** B. Date of Delivery **8-19-10**

C. Signature **X** *Gerald Lovoi*  Agent  Addressee

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**EXHIBIT**  
3