

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TERRY L. DOWDELL, et al. )  
 )  
Defendants. )  
\_\_\_\_\_ )

CASE NO. 3:01CV00116

JAMES H. MICHAEL, JR.  
U.S. DISTRICT JUDGE

**SUPPLEMENT TO RESPONSE TO MOTION TO PUNISH**

COME NOW Mark Smyth and Gregory Smyth supplementing their response and opposition to the Motion to Punish brought by Roy M. Terry, Jr. and Durette Bradshaw, PLC. Mark Smyth and Gregory Smyth respectfully represent as follows:

1. Mark and Gregory Smyth are still not able to appear for the hearing due to financial incapability. Mark Smyth and Gregory Smyth have neither the money for air fare nor a car to travel from California to Virginia and they beg the court's indulgence in this matter and ask the court to recognize the Smyths' inability to appear in person and ask the court to accept these response papers as their appearance. (See G. Smyth Aff. Paragraph 2.).

2. There is no cause for punishing either of the Smyths. The Receiver asked for and was granted a continuance of this matter pending sending the Smyths their bank records. On or about November 4, 2003 the Smyths received most of the records which they had surrendered to the SEC. On that date Gregory Smyth wrote to Roy Terry asking for what specifically the Receiver was looking for. On that same date Douglas Scott stated that they wanted a complete accounting. (See G. Smyth Aff. Paragraph 3 and attachment "A").

3. The Smyth's have, to the best of their ability, done just that. They have accounted for each check written. They did not receive their January, 2003 statements which would complete the accounting nor did the SEC or the Receiver send back the receipts of cashier's checks, nor the credit card statements.

4. The accounting does not, therefore account for the some \$20,000.00 sent to the receiver in January or the amounts collected from Jack Dempsey.

5. The accounting was done hurriedly and by hand. There is a \$900.00 discrepancy because of some error or errors which would be shone to be so in the ending balances shown on the January 2003 statements. (See attachment "B" of G. Smyth Aff.)

6. The Smyths have conformed, to the best of their ability, with the demand of the Receiver will continue to do so without threat of punishment or actual punishment.

WHEREFORE, Mark Smyth and Gregory Smyth pray the court to refrain from any punishment and further pray the court to request that the plaintiff Security and Exchange Commission transfer to the Receiver the Smyths credit card records and banking records that still remain in

the possession of the SEC.

Respectfully Submitted this 18<sup>th</sup> day of November, 2003.



Mark Smyth

One Stream Street  
Laguna Niguel, CA 92677  
(949) 248-2820



Gregory Smyth

**UNITED STATES DISTRICT COURT  
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U.S. DISTRICT JUDGE**

**AFFIDAVIT**

I, Gregory Smyth, under penalty of perjury, depose as follows:

1. I am over the age of 18 years and am the subject of the order of this court, in the above captioned case, to show cause why I should not be punished. I have personal knowledge of the facts stated herein and, if called as a witness, could competently testify thereto.

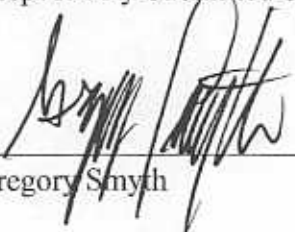
2. I do not have the financial capability to travel to Virginia on the date and time specified by the court for hearing in this matter. Currently my bank account has a negative balance and have no cash on hand. I know that Mark Smyth's financial situation is no better. Neither Mark Smyth nor I have any credit to utilize to buy an airline ticket to attend. Neither Mark Smyth nor I have an automobile to drive to Virginia. We both beg this court's indulgence for permitting our appearance to be in writing and our failure to appear in person.

3. On or about November 4, of this year my brother Mark and I received from the Receiver in this matter, our banking records less the month of January, 2003 and the receipt for cashiers checks and credit card statements. I wrote to Roy Terry asking for direction regarding the information he wished us to supply. He referred the matter to Douglas Scott of his office who E-mailed back that he wanted an accounting of each and every deposit and check written and copies to back them up, (See Attachment "A" hereto).. We have complied with that demand to the best of our ability and are just now completing a hand written accounting. (See attachment "B").

4. The hand written accounting includes abbreviations such as TLD which means Terry Dowdell, and JTS which means Johanna Smyth, my estranged wife from whom I have lived separate and apart since November 2, 2001. All other abbreviations are self explanatory but we are available to any of the parties to explain such things if there are further questions.

5. We have co-operated and will continue to do so and beg the court to not punish us.

Respectively Submitted by:



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Gregory Smyth

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Laguna Niguel, CA 92677  
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