

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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CLERK
U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

TREVOR G. COOK,
PATRICK J. KILEY, et al.,

Defendants,

and

BASEL GROUP, LLC, et al.,

Relief Defendants.

CIVIL ACTION

FILE NO. 09-cv-3333-MJD/FLN

**DEFENDANT KILEY'S RESPONSE TO SECURITIES AND EXCHANGE
COMMISSION'S FIRST SET OF REQUESTS TO ADMIT**

The United States Securities and Exchange Commission serves the following requests to admit to Defendant Patrick Kiley pursuant to Rule 36 of the Federal Rules of Civil Procedure.

SCANNED
MAY 25 2011
U.S. DISTRICT COURT MPLS

Instructions

1. Please admit or deny the following requests as provided by Rule 36. Please note that the Federal Rules require a good-faith basis for any denial. *See* Fed. R. Civ. P. 36(a)(4) (“A denial must fairly respond to the substance of the matter . . .”). Please note that, under Rule 37, “[i]f a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney’s fees, incurred in making that proof.” *See* Fed. R. Civ. P. 37(c)(2).

2. For any request that you admit in part and deny in part, please specify the portion that you admit and the portion that you deny as required by the Federal Rules and provide an explanation. *See* Fed. R. Civ. P. 36(a)(4) (“[W]hen good faith requires that a party qualify an answer or deny only a party of a matter, the answer must specify the part admitted and qualify or deny the rest.”).

3. The following requests to admit address the “genuineness of [the] described documents” or other information. *See* Fed. R. Civ. P. 36(a)(1)(B). The phrase “fair and accurate” copy includes both authenticity and, where applicable, their status as business records.

4. The term “Currency Program” refers to the putative foreign-currency trading program as alleged in the Complaint. *See, e.g.,* Complaint at ¶¶ 3-5. It includes the program as represented to investors, even though the trading program itself was not a legitimate business enterprise.

5. The recordings described below refer to the files on the CD labeled SEC 003, which the Commission produced to Defendant Kiley on April 20, 2011. The SEC also produced the documents cited below to Defendant Kiley on April 20, 2011.

Requests to Admit

1. Admit that the file labeled "FTM 01-12-2009" is a fair and accurate recording of a radio broadcast by you on or about January 12, 2009.

Answer: Kiley denies that file FTM 01-12-2009 is fair and accurate because there seems to be some distortions at 3:59, 4:65, 5:30, 6:01, 6:27, 6:57, 24:32, 25:23, 28:42, 33:25, 33:41, 37:08 and 40:01 of the broadcast.

2. Admit that the file labeled "FTM 01-26-2009" is a fair and accurate recording of a radio broadcast by you on or about January 26, 2009.

Answer: Kiley denies that file FTM 01-26-2009 is fair and accurate because there seems to be some distortions at 3:51, 5:30, 6:03, 8:55, 9:57 and 46:58 of the broadcast.

3. Admit that the file labeled "FTM 02-2-09" is a fair and accurate recording of a radio broadcast by you on or about February 2, 2009.

Answer: Kiley denies that file FTM 02-2-2009 is fair and accurate because there seems to be some distortions at 2:59, 3:34 and 4:14 of the broadcast.

4. Admit that the file labeled "FTM 02-16-09" is a fair and accurate recording of a radio broadcast by you on or about February 16, 2009.

Answer: Kiley denies that file FTM 02-16-2009 is fair and accurate because there seems to be some distortions at 4:32 and 9:40 of the broadcast.

5. Admit that the file labeled "FTM 02-23-09" is a fair and accurate recording of a radio broadcast by you on or about February 23, 2009.

Answer: Kiley denies that file FTM 02-23-2009 is fair and accurate because there seems to be some distortions at 3:45 and 6:13 of the broadcast.

6. Admit that the file labeled "FTM 03-02-09" is a fair and accurate recording of a radio broadcast by you on or about March 2, 2009. .

Answer: Kiley denies that file FTM 03-02-2009 is fair and accurate because there seems to be some distortions at 3:21, 7:34, 8:26, 9:26, 17:30 and 44:04 of the broadcast.

7. Admit that the file labeled "FTM 03-9-09" is a fair and accurate recording of a radio broadcast by you on or about March 9, 2009.

Answer: Kiley denies that file FTM 03-9-2009 is fair and accurate because there seems to be some distortions at 4:57, 5:51, 7:01, 27:46 and 32:58 of the broadcast.

8. Admit that the file labeled "FTM 03-23-1" is a fair and accurate recording of a radio broadcast by you on or about March 23, 2009.

Answer: Kiley denies that the file FTM 03-23-1 is fair and accurate because there seems to be some distortions at 5:30 and 28:16.

9. Admit that the file labeled "FTM 04-06-09" is a fair and accurate recording of a radio broadcast by you on or about April 6, 2009.

Answer: Kiley denies that the file FTM 04-06-09 is fair and accurate because there seems to be some distortions at 2:14 and 5:37.

10. Admit that the file labeled "FTM 04-13-09" is a fair and accurate recording of a radio broadcast by you on or about April 13, 2009.

Answer: Kiley denies that the file FTM 04-13-09 is fair and accurate because there seems to be some distortions at 2:38 and 32:31.

11. Admit that the file labeled "FTM 04-20-09" is a fair and accurate recording of a radio broadcast by you on or about April 20, 2009.

Answer: Kiley denies that the file FTM 04-20-09 is fair and accurate because there seems to be some distortions at 2:53.

12. Admit that the file labeled "FTM 04-27-09" is a fair and accurate recording of a radio broadcast by you on or about April 27, 2009.

Answer: Kiley denies that the file FTM 04-27-09 is fair and accurate because there seems to be some distortions at 14:08.

13. Admit that the file labeled "FTM 05-04-09" is a fair and accurate recording of a radio broadcast by you on or about May 4, 2009.

Answer: Kiley denies that the file FTM 05-04-09 is fair and accurate because there seems to be some distortions at 2:35.

14. Admit that the file labeled "FTM 05-11-09" is a fair and accurate recording of a radio broadcast by you on or about May 11, 2009.

Answer: Kiley denies that the file FTM 05-11-09 is fair and accurate because there seems to be some distortions at 3:02.

15. Admit that the file labeled "FTM 05-18-09" is a fair and accurate recording of a radio broadcast by you on or about May 18, 2009.

Answer: Kiley denies that the file FTM 05-18-09 is fair and accurate because there seems to be some distortions at 3:49, and 45:52.

16. Admit that the file labeled "FTM 05-25-09" is a fair and accurate recording of a radio broadcast by you on or about May 25, 2009.

Answer: Kiley denies that the file FTM 05-25-09 is fair and accurate because there seems to be some distortions at 6:13, 7:38 and 9:14.

17. Admit that the file labeled "FTM 06-01-09" is a fair and accurate recording of a radio broadcast by you on or about June 1, 2009.

Answer: Kiley denies that the file FTM 06-01-09 is fair and accurate because there seems to be some distortions at 3:04, 6:06 and 8:39.

18. Admit that the file labeled "FTM 06-08-09" is a fair and accurate recording of a radio broadcast by you on or about June 8, 2009.

Answer: Kiley denies that the file FTM 06-08-09 is fair and accurate because there seems to be some distortions at 2:29, 5:00 and 13:06.

19. Admit that the file labeled "FTM 06-15-09" is a fair and accurate recording of a radio broadcast by you on or about June 15, 2009.

Answer: Kiley denies that the file FTM 06-15-09 is fair and accurate because there seems to be some distortions at 2:58, 6:00 and 6:54.

20. Admit that the file labeled "FTM 06-22-09" is a fair and accurate recording of a radio broadcast by you on or about June 22, 2009.

Answer: Kiley denies that the file FTM 06-22-09 is fair and accurate because there seems to be some distortions at 4:00 and 9:18.

21. Admit that the file labeled "FTM 06-29-09" is a fair and accurate recording of a radio broadcast by you on or about June 29, 2009.

Answer: Kiley denies that the file FTM 06-29-09 is fair and accurate because there seems to be some distortions at 4:48, 6:28, 18:25 22:22 and 26:00.

22. Admit that you controlled a website at www.patkiley.com.

Answer: Kiley admits in part that he owned the website but denies that he had control of it. Cook controlled the content of the website.

For example, Cook took it upon himself to write up a fictitious resume on Kiley that made Kiley look like some kind of a financial guru with world-wide experience which was a total embarrassment to Kiley.

Kiley had many back and forth arguments with Cook over that issue, but like everything else, Cook's word was always final.

23. Admit that you were responsible for the content of the website at www.patkiley.com.

Answer: Kiley denies any responsibility for the content of the website at www.patkiley.com. Kiley not only had to contend with Cook's control of the website but also had to contend with another of Cook's "cast of characters" one in particular, Marc Trimble. Kiley hired Trimble and after about a month or so Kiley fired him because of Trimble's "sleaze factor". When Trimble talked with prospective clients, Kiley caught him saying things that were not accurate. Going back for a moment, Trimble's background prior to working for Kiley was building and designing websites and composing content. Trimble's second or third day on the job with Kiley, Trimble approached Kiley with an offer to take charge of Kiley's website because Trimble had found out that the entity that Kiley had in charge of the website was not returning Kiley's calls whenever he had questions about the website, so naturally Trimble found Kiley to be a more than willing customer of his services. By this time Kiley was very frustrated with the whole website situation. Shortly afterwards Trimble reported to Kiley that everything was okay and that he just made some minor changes and not to be concerned.

Kiley was reassured of this by Trimble so Kiley could continue to focus on his main responsibilities. Much later, Kiley casually looked at the website one day and discovered that Trimble had made major changes to the website and was reassured, again, by Trimble that they would all be corrected.

A couple of weeks later Kiley fired Trimble for causing great consternation with the people who had been in charge of the website, because whenever Trimble had to contact them for various questions for accessibility codes of various kinds, Trimble caused great problems.

Trimble immediately contacted Cook to seek employment with Cook. Cook immediately embraced that situation and Cook and Trimble became extremely close friends and Trimble continued on doing a “special” website design work for Cook unbeknownst to Kiley. Kiley shortly afterwards found out that Trimble had total accessibility to all of Kiley’s computer leads and content and was heard bragging about his feat. Kiley found out that Trimble was draining off leads for himself from Kiley’s website and then to add insult to injury, Kiley brought this to Cook’s attention and Cook laughed it off, but by that time all the damage was done. Kiley then had a confrontation with Trimble and Kiley went on to tell him that Trimble was nothing more than a younger version of Gerald Durand, another one of Cook’s minions, who in Kiley’s eyes was a person of low morals and a classic textbook example of a sociopath. Trimble’s response was of non-concern because now he worked

for Cook and he said he was “Trevor’s bitch” which Kiley thought was a very “sick” comment for any human being to make about themselves.

By this time Kiley was totally fed up with the website because it had become nothing more than a “literary bordello”.

The control of the website by Cook and Trimble caused Kiley to look back at other factors as well. Kiley expressed concern directly to Cook, because Kiley felt that Cook was being influenced and misled by Marc Trimble and Gerald Durand and their after hours behavior and that Cook as head of these companies should not be cavorting and drinking heavily. Cook supposedly took Kiley’s advice and was in appearances contrite. Kiley later found out that it was all short lived. Kiley, looking back, came to realize that the information flow between the two offices had been drying up a lot longer than Kiley had realized which prompted Kiley to try to find a source of information from downtown but was stone-walled. Kiley then because of his duties had to stay focused on his responsibilities to his people and clients. Another incident regarding Cook and Trimble involving communication between Kiley’s office and Cook’s office occurred sometime after the Bernie Madoff scandal. Cook called Kiley and said Trimble had discovered some unfavorable information involving UBFX and some unfavorable information about UBFX on a website called www.Forexbastards.com and not to be concerned about it because Trimble had been contacted about the complainant and the problem had been corrected.

Then quite sometime later Kiley found out that Trimble had emailed the website posing as a client and had written some untrue highly favorable comments about UBFX, and then later Trimble was discovered by that website that Trimble himself was working for Cook and previously had been an employee of UBFX.

All this information had been suppressed by Cook with the intent of keeping it from Kiley.

Kiley was very forthright with any callers and told them that Trimble had previously been employed by Kiley and Kiley had fired him quite some time ago because of his questionable character. Kiley confronted Cook on the matter and Cook acted like Pontius Pilate, then Cook told Kiley he would make amends with the complainant and the people at www.Forexbastards.com.

Sometime in mid 2009, Kiley discovered that Cook had Trimble do a special assignment involving a new website, titled "Basel Financial Group" and asked Trimble and Cook about it, because Cook had Kiley using new applications for the client's money to go into. Kiley was told by both of them what a wonderful company it was. After the downfall of the "Cook Companies" he found out it was nothing but a fraud.

24. Admit that you promoted the Currency Program on your website at www.patkiley.com.

Answer: Kiley denies this allegation. Kiley's only intention was to promote

through general conceptual and general educational ways, the concept of managed foreign currencies in tandem with Arbitrage.

Kiley never ever mentioned the name of the company because Kiley's intention was to promote the concepts not a company and to see if the audience was open to another avenue of investments instead of the stock market which was falling like a rock, meaning average losses anywhere from forty percent to sixty percent of these people's retirements.

Kiley also never mentioned the name of the company that he was associated with on the website as he wanted only to educate the public not to promote a company by name. The company's names were spoken only when the potential clients called the toll-free numbers. Clients then would be qualified by our representatives to see if there was suitability and not all of them qualified. Information was then sent out to them with full identification so they knew who they might choose to do business with. The reason for doing it this way was because it was more personal and in alignment with the personality of the broadcast.

All literature was written and designed by Trevor Cook as well as all monthly or quarterly statements. The design on how the company functioned was formatted by Trevor Cook. Cook assigned himself the responsibilities of handling all monies and their assignments and disbursements. Kiley was given (supposedly) the function of the radio program, customer service and training the representatives he chose and was extremely selective in his

choices. Kiley was led to believe by Cook that Kiley ran UBFX, but in reality like all of Cook's enterprises, Cook always controlled everything as that is his nature.

Kiley felt that he had never met anyone like Cook who could give you a heartfelt pat on the back and make you feel like you were doing the world a great favor.

25. Admit that SEC001957 to 002024 is a fair and accurate copy of pages from the website at www.patkiley.com dated on or about February 19, 2009.

Answer: Kiley denies having any control of the content of the website especially after Marc Trimble became involved along with Cook. The website became a source of disappointment because for starters the website was six months late in coming online and quickly afterwards Cook always seemed to be "tweaking" the site. In summarizing Kiley's attitude toward the website, he became angry, disgusted and disappointed with what was taking place with it by Cook and Trimble and with that combination lost desire to have any involvement with the website.

26. Admit that SEC001848 to 001951 is a fair and accurate copy of pages from the website at www.patkiley.com dated on or about April 20, 2009.

Answer: Kiley denies the entire question because the content presented on the disc pertaining to the file SEC001848 to 001951 is more than confusing as the material comprised only about one and a half pages of website material but not enough information to decide what the real question is because the rest of the material presented is non related to the website.

**Kiley is wondering if the SEC uses “confusion” as a strategy and if so, then
Kiley recommends that they change direction.**

Dated: May 25, 2011

Respectfully submitted,

s/ Patrick Kiley

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the foregoing document was served on Plaintiff's Counsel on May 25, 2011 by electronic mail to the counsel listed below.

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