

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**OMEGA FACILITY SERVICES, SOLUTIONS & SURETY, LLC,
JEFFREY R. BROWN,
SUSAN L. BROWN,**

PLAINTIFFS,

v.

**CIVIL ACTION NO. 14-C-1745 (Kanawha)
Hon. Thomas C. Evans, III**

**JACOBS & COMPANY, INC., a West Virginia Corporation
JACOBS FINANCIAL GROUP, INC., a West Virginia Corporation
FS INVESTMENTS, INC., a West Virginia Corporation
FIRST SURETY CORPORATION, INC., a West Virginia Corporation
TRIANGLE SURETY AGENCY, INC., a West Virginia Corporation
JOHN M. JACOBS, a West Virginia Resident
ROBERT J. KENNEY, a West Virginia Resident**

DEFENDANTS.

AMENDED VERIFIED COMPLAINT

NOW COME the Plaintiffs, OMEGA FACILITY SERVICES, SOLUTIONS & SURETY, LLC, JEFFREY R. BROWN, and SUSAN L. BROWN, by counsel, and for their verified complaint state as follows:

THE PARTIES

1. Omega Facility Services, Solutions & Surety, LLC, hereinafter "Omega," is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Elkview, Kanawha County, West Virginia.
2. Jeffrey R. Brown is and at all relevant times herein was a resident of Kanawha County, West Virginia.

3. Susan L. Brown is and at all relevant times herein was a resident of Kanawha County, West Virginia.
4. Defendant Jacobs & Company, Inc. is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Charleston, Kanawha County, West Virginia.
5. Defendant Jacobs Financial Group, Inc. is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Charleston, Kanawha County, West Virginia.
6. Defendant FS Investments, Inc. is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Charleston, Kanawha County, West Virginia.
7. Defendant First Surety Corporation, Inc. is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Charleston, Kanawha County, West Virginia.
8. Defendant First Surety Corporation, Inc., is a licensed domestic insurer in the State of West Virginia, with the NAIC number 38504.
9. Defendant Triangle Surety Agency, Inc. is and at all relevant times herein was a West Virginia Corporation with its principal place of business located in Charleston, Kanawha County, West Virginia.
10. Defendant John M. Jacobs is and at all relevant times herein was a resident of Kanawha County, West Virginia.

11. Upon information and belief, Defendant Robert J. Kenney is and at all relevant times herein was a resident of Kanawha County, West Virginia.
12. Venue and jurisdiction are proper in this Court, as the actions complained of primarily took place in Kanawha County, West Virginia, and those actions that did not take place in Kanawha County, West Virginia took place as a result of the Defendants doing business with the Plaintiffs in Kanawha County, West Virginia, while maintaining licenses and registrations necessary to conduct securities related business with West Virginia residents within the State of West Virginia.
13. The damages resulting from the actions alleged in this complaint exceed the jurisdictional minimum of this Honorable Court.

FACTS

14. Plaintiffs incorporate by reference paragraphs 1 through 13 as if fully set forth.
15. Nathan H. Casto was and is President of Casto Technical Services, Inc., with its principal place of business located in Charleston, West Virginia.
16. John M. Jacobs was and is President of Triangle Surety Agency, Inc. a member of Jacobs Financial Group, Inc.
17. John M. Jacobs was and is President of Jacobs & Company, Inc., a member of Jacobs Financial Group, Inc.
18. John M. Jacobs was and is President of Jacobs Financial Group, Inc..
19. John M. Jacobs was and is President of FS Investments, Inc., a subsidiary of Jacobs Financial Group.

20. John M. Jacobs was and is Board of Director for First Surety Corporation, Inc., a member of Jacobs Financial Group, Inc.
21. Robert J. Kenney was and is President of First Surety Corporation, Inc., a member of Jacobs Financial Group, Inc.
22. Robert J. Kenney was and is Vice President of Jacobs & Company, Inc., a member of Jacobs Financial Group, Inc., and acts in this capacity as an account manager.
23. John M. Jacobs and Nathan H. Casto have had a longstanding personal and business relationship.
24. Jeffrey R. Brown was employed as the Vice President of Engineering Services for Casto Technical Services until September of 2011.
25. On or about February 2011, Nathan Casto, was concerned about pursuing a contract with Fayette County Schools due to a conflict with Casto Technical Services, Inc.'s franchise agreement with Trane.
26. On or about February 2011, Nathan Casto developed the idea that another company could be formed by another individual to secure the contemplated Fayette County Schools contract.
27. On or about March 4, 2011, John M. Jacobs, Robert J. Kenney, and Nathan Casto jointly devised a plan to induce a bond requirement upon a new company to be formed for the purpose of pursuing the Fayette County Board of Education Performance Contract Energy Management Program Savings Guarantee Agreement (hereinafter the "WVDOE/FCBOE Contract"), then in development.

28. Thereafter, John M. Jacobs, Robert J. Kenney, both of whom were officers and directors of First Surety Corporation, Inc., Jacobs Financial Group, Inc., Triangle Surety Agency, Inc., Jacobs & Company, Inc., and FS Investments, Inc., and Nathan H. Casto induced Jeffrey R. Brown to create an alternate company, Omega Facility Services, Solutions, and Surety, LLC (hereinafter Omega), and through non-disclosure of significant information relevant to the interests of Plaintiffs, did induce Jeffrey R. Brown to leave his employment with Casto Technical Services for the purpose of forming Omega to provide a Savings Guarantee Agreement for the "WVDOE/FCBOE Contract".

29. In April 8, 2011, Jeffrey R. Brown formed Omega as a West Virginia member-managed LLC.

30. In May 2011, the WVDOE/FCBOE Contract was proposed to the Fayette County Schools Superintendent by Jeffrey R. Brown of Omega.

31. In June 2011, the Fayette County Board of Education, by its Superintendent selected Crews & Associates with offices in Charleston, West Virginia, as financial services broker for arranging 3rd party bond financing with First Security Corporation with principal office in Little Rock, Arkansas.

32. On or about August 2011, Max Sharp of First Security Corporation told to Jeffrey R. Brown for the first time that Omega would be required to provide a series of surety bonds for the "WVDOE/FCBOE Contract."

33. At that time, Robert J. Kenney of First Surety Corporation, Inc. initiated contact with Jeffrey R. Brown to sell him surety bonds for the "WVDOE/FCBOE Contract."

34. On or about September 2011, Defendants told Jeffrey R. Brown for the first time that in addition to the premium amount of \$130,387.55 for the surety bonds that Omega was also required to collateralize 18.7512% of its net revenue proceeds from the "WVDOE/FCBOE Contract".

35. On or about September 2011, John M. Jacobs told the Plaintiffs for the first time that as a prerequisite for issuing the surety bonds, Omega was required to enter into various agreements with John M. Jacobs' affiliate business entities including Jacobs & Company, acting as investment manager of the collateral account, First Surety Corporation, acting as surety bond issuer, and Wellington Shields, acting as broker for the collateral account.

36. On or about September 2011, Jeffrey R. Brown told Nathan H. Casto of his concern about John M. Jacobs' concealing the collateral requirement as a prerequisite to issuing the surety bonds.

37. On or about September 2011, Nathan H. Casto met in private with John Jacobs to discuss the surety bond and collateral account.

38. On or about September 2011, Robert J. Kenney provided Jeffrey R. Brown with a list of documents that First Surety Corporation required prior to issuing the bonds.

39. On said list, Robert J. Kenney requested a Casto/Omega document providing for the equitable distribution of collateral account proceeds when the risk of difference between final construction phase net profit and construction phase is complete.

40. Jeffrey R. Brown requested the source of such a demand from Robert J. Kenney and told Robert J. Kenney on or about September 2011 that no such document or agreement existed.
41. On September 28th 2011, Omega paid First Surety Corporation in full the premium for the surety bonds in the amount of \$130,387.55.
42. On September 28, 2011, Robert J. Kenney directed Jeffrey R. Brown, on behalf of Omega, to establish an account with Jacobs & Company, for the investment of the collateral account proceeds.
43. Jacobs & Company, Inc. is an affiliate of First Surety, Inc., which are both owned and operated by John M. Jacobs, which was not disclosed to Plaintiffs prior to entering into the agreements with First Surety, Inc. and Jacobs & Company, Inc.
44. On September 28, 2011, Jeffrey R. Brown met with John M. Jacobs, established said collateral account, and signed an investment management agreement.
45. John M. Jacobs received fixed compensation from First Surety Corporation, Inc. for his services while acting on its Board of Directors.
46. John M. Jacobs received investment advisory fees on the collateral account Plaintiffs established with Defendants.
47. John M. Jacobs received commissions or other compensation from Triangle Surety Agency, Inc. for the sale of the surety bonds to Omega.
48. Robert J. Kenney received fixed compensation from First Surety Corporation, Inc. for his services while acting as President of the company.

49. Robert J. Kenney was receiving investment advisory fees as an employee of Jacobs & Company, Inc.
50. Robert J. Kenney received commissions or other compensation from Triangle Surety Agency, Inc. for the sale of the surety bonds to Omega.
51. On September 28, 2011, First Surety Corporation was granted a security interest in the Collateral Account by having its name placed on the title of the account, pursuant to the Indemnity Agreement and Collateral Account Control Agreement between First Surety Corporation and Plaintiffs.
52. Defendants have at all relevant times held a security interest in the collateral account through the "Indemnity Agreement" of First Surety Corporation, Inc., and the "Collateral Account Control Agreement" of First Surety Corporation, Inc.
53. Jacobs & Company, Inc. pays referral fees to First Surety Corporation, Inc. for collateral accounts referred to it by First Surety Corporation, Inc.
54. The Collateral Account was set up with First Surety Corporation's affiliate company, Jacobs & Company as Registered Investment Advisor, through Wellington Shields & Company, LLC, The Herbst Group, LLC and Edward I. Herbst acting as broker.
55. On September 30, 2011, Jeffrey R. Brown left his employment with Casto Technical Services, Inc. in order to provide the savings guarantee for the WVDOE/FCBOE contract.
56. John M. Jacobs failed to disclose to Jeffrey R. Brown, prior to entering into the "Indemnity Agreement", "Collateral Account Agreement", "Investment Management

Agreement", and the "WVDOE/FCBOE Contract" that he owed Nathan H. Casto money and/or favor and had foreknowledge that Nathan H. Casto planned to file a lawsuit against Omega.

57. Plaintiffs had a reasonable expectation of good faith and fair dealing from John M. Jacobs and affiliated companies to fully disclose any existing and/or potential conflicts of interest, as set forth in the many agreements between the Plaintiffs and Defendants.

58. John M. Jacobs has managed the Collateral Account in a discretionary manner since November 2011.

59. John M. Jacobs has ordered hundreds of trades on the Collateral Account since November 2011.

60. John M. Jacobs has acted as a discretionary fiduciary on the Collateral Account since November 2011.

61. Robert J. Kenney is an employee of both First Surety Corporation and Jacobs & Company, as disclosed in the Form ADV, a required SEC form, provided by Jacobs & Company, said form having expired in 2008.

62. In February of 2012, Robert J. Kenney called Jeffrey R. Brown and told him that he had "heard a rumor" from a source he could not recall that Casto had filed a lawsuit against Omega.

63. Jeffrey R. Brown told Kenney during the phone call that he was unaware of any lawsuit and asked for the source of the rumor.

64. Kenney responded during the phone call that "it was probably just a rumor."

65. On or about September 28, 2012, Casto Technical Services Incorporated filed suit against Omega in relation to the "WVDOE/FCBOE Contract."

CLAIMS

Count I.

Fraud in the Inducement

66. Plaintiffs incorporate by reference paragraphs 1 through 65 as if fully set forth herein.

67. John M. Jacobs and Robert J. Kenney had a confidential relationship with Nathan Casto of Casto Technical at all relevant times in this complaint.

68. John M. Jacobs and Robert J. Kenney knew of Nathan Casto's intent to bring suit against Omega, Jeffrey R. Brown, and Susan L. Brown pertaining to the WVDOE/FCBOE contract.

69. Defendants intentionally concealed Nathan Casto's intention to bring suit against Omega, Jeffrey R. Brown, and Susan L. Brown.

70. Defendants induced Omega, Jeffrey R. Brown, and Susan L. Brown to enter into a contract for surety bonds, and into granting Defendants a security interest in the Collateral Account with the intention of utilizing said security interest for the benefit of Nathan Casto.

71. John M. Jacobs and Robert J. Kenney did not disclose their intention to Plaintiffs to divide the Collateral Account, or to secure the Collateral Account for the benefit of Nathan Casto.

72. Plaintiffs reasonably relied on the representations of the Defendants in entering into the Indemnity Agreement with First Surety Corporation for the purpose of securing surety bonds for the Fayette County Schools Contract.
73. Plaintiffs would have never entered into the Indemnity Agreement with Defendants had the Defendants disclosed Nathan Casto's intentions to sue Plaintiffs.
74. Plaintiffs would have never entered into the Indemnity Agreement with Defendants had the Defendants disclosed their intention to secure the collateral account for the benefit of Nathan Casto.
75. Plaintiffs would have never entered into the Indemnity Agreement with the Defendants had the Defendants disclosed the Conflict of Interest resulting from John M. Jacobs acting as a fiduciary on the collateral account while simultaneously holding a secured interest in the collateral account.
76. Plaintiffs would have never entered into the Indemnity Agreement with the Defendants had the Defendants disclosed the illegal commission and finder fee scheme between First Surety Corporation, Inc., and Jacobs & Company, Inc., in violation of §33-4-17 of the West Virginia Code.
77. Plaintiffs would have never entered into the Indemnity Agreement with the Defendants had the Defendants disclosed the fact that Robert J. Kenney, while acting as President of First Surety Corporation, Inc., was also receiving commissions from Triangle Surety Agency, Inc. for the sale of the surety bonds, in violation of §33-4-17 of the West Virginia Code.

78. Plaintiffs have sustained damages including lost profits, and decline in their investment account, due to the Defendants' fraudulent behavior.

79. Plaintiffs have been damaged by the fraud of the Defendants in that they have been denied access to the profits in the collateral account.

Count II.

Tortious Interference with Favorable Business Relationship

80. Plaintiff's incorporate paragraphs 1 through 79 as if fully set forth herein.

81. Jeffrey R. Brown was an employee of Casto Technical prior to forming Omega to enter into the agreements related to the Fayette County Schools Performance Guaranty Contract.

82. Jeffrey R. Brown was satisfied in his employment at Casto Technical.

83. The Defendants knew of Jeffrey R. Brown's employment with Casto Technical, that he had been a long time employee of Casto Technical, and that he was well satisfied in his employment with Casto Technical.

84. Casto Technical could not enter into the Energy Management Program at Fayette County Schools due to other contractual obligations that prevented Casto from guaranteeing the performance. Jeffrey R. Brown was induced by Defendants into severing his employment with Casto Technical and forming Omega to provide the required Performance Guarantee Contract.

85. The Defendants were not authorized to interfere in Jeffrey R. Brown's employment relationship with Casto Technical.

86. The representations and intentional omissions of the Defendants were of critical importance in influencing Plaintiffs' decision to leave Casto Technical and start the Omega venture.

87. The Plaintiffs have been deprived of many years wages and income due to Defendants interference with Jeffrey R. Brown's employment relationship with Casto Technical.

Count III.

Civil Conspiracy

88. Plaintiffs incorporate paragraphs 1 through 87 as if fully set forth herein.

89. The Defendants, Robert J. Kenney and John M. Jacobs, did conspire together and with other persons to induce Jeffrey R. Brown to leave his employment, and induce him to enter into the agreements herein above described with their respective companies.

90. The Defendants conspired to receive illegal finder's fees, kickbacks, commissions, and other pecuniary benefits by fraudulently inducing the Plaintiffs to purchase surety bonds from First Surety Corporation, Inc. and then requiring the Plaintiffs to open a collateral account with Jacobs & Company, Inc. and John M. Jacobs, in violation of §33-4-17 of the West Virginia Code.

91. The Defendants had an agreement and did shift customers or clients, including the Plaintiffs, between First Surety Corporation, Inc., Triangle Surety Agency, Inc., and Jacobs & Company, Inc. to achieve illegal finder's fees, kickbacks, and other pecuniary benefits, in violation of §33-4-17 of the West Virginia Code.

92. The Defendants acted in concert with Nathan Casto to aid in convincing Jeffrey R. Brown to leave his employment with Casto Technical Services, Inc. to set up Omega.

93. The Defendants acted in concert with Nathan Casto to gain a security interest in Plaintiffs' profits from the "WVDOE/FCBOE Contract", and secure those profits for a contemplated lawsuit by Nathan Casto.

94. The Defendants committed one or more overt acts in furtherance of the conspiracy, including directly inducing Jeffrey R. Brown to open the collateral account with Jacobs & Company, Inc.

95. The Defendants committed one or more overt acts in furtherance of the conspiracy, including directly influencing, through multiple meetings and communications, Jeffrey R. Brown to leave his employment with Casto Technical Services, Inc.

96. The Plaintiffs have suffered damages as a result of the conspiracy, including lost wages, lost profits, attorneys' fees, and lost business opportunities.

Count IV.

Fraudulent Misrepresentation

97. The Plaintiffs incorporate Paragraphs 1 through 96 as if fully set forth herein.

98. The Defendant, John M. Jacobs, at all times relevant to these proceedings, and particularly prior to the inception of the Investment Management Agreement, represented to the Plaintiffs that he was an Investment Adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940.

99. Specifically, the Defendant, John M. Jacobs, represented in Section 10(a)(i) of the Investment Management Agreement, in the section entitled "Representations and Warranties of Investment Manager", that "It is registered with the Securities and Exchange Commission as an investment advisor under the Investment Advisers Act of 1940, as amended."

100. The Defendant, John M. Jacobs, further represented in Section 10(a)(iv) of the Investment Management Agreement that "Each of Investment Manager and its principals has effected all filings and registrations with governmental and regulatory agencies in the United States required to conduct its business and to perform its obligations under this Agreement."

101. The Defendants; John M. Jacobs, Robert Kenney, Jacobs Financial Group, Inc., and Jacobs & Company, Inc. are not Investment Advisers registered with the Securities and Exchange Commission under the Investment Adviser Act of 1940, and none of the Defendants have affected the filings and registrations with the appropriate government or regulatory agencies in the United States required to conduct its business and to perform its obligations under the Investment Management Agreement.

102. The Defendants were not Investment Advisers registered with the Securities and Exchange Commission under the Investment Adviser Act of 1940 at the inception of the Investment Management Agreement, and have not been so registered since the inception of the Investment Management Agreement, nor at any time have the Defendants affected the proper filings and registrations with government or civil

regulatory agencies to conduct Investment Management business or perform their obligations under the Investment Management Agreement.

103. At the time the Defendants made the aforementioned representations and warranties, the statements were false or made recklessly without knowledge of the statements' truth.

104. At the time the statements were made by the Defendants, the statements were made with the intention of causing the Plaintiffs to rely upon the truth of the statements.

105. The Plaintiffs relied upon the truth of the representations and warranties made by the Defendants.

106. The Plaintiffs have suffered damages as a result of their reliance upon the representations and warranties of the Defendants.

Count V.

Breach of Fiduciary Duty

107. The Plaintiffs incorporate Paragraphs 1 through 106 as if fully set forth herein.

108. A fiduciary relationship existed between the Plaintiffs and Defendants; John M. Jacobs, Jacobs & Company, Inc., and Jacobs Financial Group, upon the execution of the Investment Management Agreement.

109. The Defendant, John M. Jacobs, acknowledged in the Investment Management Agreement that he had a duty to exercise good faith and due care in his management of the Investment Account.

110. The Defendant, John M. Jacobs, was appointed the Plaintiffs' "attorney-in-fact" in regards to investment decisions made in the investment account.

111. The Defendants; John M. Jacobs, Jacobs & Company, Inc., and Jacobs Financial Group, Inc., breached their fiduciary obligations to the Plaintiffs by negligently managing the Collateral Account, fraudulently misrepresenting their credentials and licensing to manage the Collateral Account, misallocating the assets held in the Collateral Account, negligently recommending speculative investment allocations in the Collateral Account, recommending inappropriate investments in the Collateral Account, and failing to properly ascertain the risk tolerance of the Plaintiffs in regards to the Collateral Account.

112. The Defendant, John M. Jacobs, further breached the fiduciary duty owed to the Plaintiffs by failing to disclose to the Plaintiffs that in addition to acting as the advisor on the Plaintiffs' Collateral Account, he held a security interest in the Collateral Account through his ownership of First Surety Corporation, Inc.

113. The Defendants' breach of their fiduciary duty owed to the Plaintiffs has resulted in damages to the Plaintiffs, including lost profits, missed investment opportunities, and lack of access to their funds.

114. The Defendants' breach of their fiduciary duty owed to the Plaintiffs has resulted in benefits to the Defendants, including commissions and fees.

Count VI.

Violations of the West Virginia Uniform Securities Act

115. The Plaintiffs incorporate Paragraphs 1 through 114 as if fully set forth herein.

116. The Defendants; John M. Jacobs, Robert Kenney, Jacobs Financial Group, Inc., and Jacobs & Company, Inc. offered and sold securities to the Plaintiffs by means of untrue statements of material fact and omissions to state material facts necessary in order to make the untrue statements made to the Plaintiffs.

117. The Plaintiffs exercised reasonable care in relying upon the statements made by the Defendants when entering into the Investment Management Agreement with the Defendants.

118. The Plaintiffs, at all times relevant, did not know the representations and warranties of the Defendants, and other statements made by the Defendants which the Plaintiffs relied upon in purchasing the securities recommended by the Defendants, were untrue or misleading.

119. The Plaintiffs have suffered losses, attorneys' fees, and costs due to the Defendants untrue statements and omissions by the Defendants.

120. The conduct of the Defendants constitutes a violation of West Virginia Code §32-4-410, and the Plaintiffs are thereby entitled to be awarded damages and relief under the applicable code section.

Count VII.
Preliminary Injunction

121. Plaintiffs incorporate paragraphs 1 through 95 as if fully set forth herein.

122. The Defendants claim a security interest in Plaintiffs' collateral account.

123. Under the Provisions of the Indemnity Agreement and Collateral Account Control Agreement, the Defendants can deem themselves insecure and take the account.
124. Omega has performed all its duties under the WVDOE/FCBOE contract.
125. Omega is ahead of schedule on the savings guarantee provided to Fayette County Schools under the WVDOE/FCBOE contract.
126. Fayette County Schools and the West Virginia Department of Education would not be harmed by the granting of this injunction as the bonds would still be collateralized during the pendency of these proceedings.
127. Fayette County Schools and the West Virginia Department of Education would not be harmed by a finding of fraud in the inducement, thereby invalidating the Indemnity Agreement and Collateral Account Control Agreement, because the WVDOE/FCBOE contract contains a provision for a Supplemental Savings Reserve Account, which provides adequate security, should the surety bonds fail for any reason.
128. The Defendants' conduct has been reprehensible and conspiratorial and is indicative of intent to harm the Plaintiffs.
129. The Defendants have exhibited intent to confiscate funds from the collateral account in the past by attempting to pay their own attorney's fees out of the collateral account.
130. On June 9, 2014, the Plaintiffs issued a stop trade order by email to John M. Jacobs.

131. On June 25, 2014, the Plaintiffs had a meeting with John M. Jacobs to discuss the concerns they had with the investment of the collateral account, wherein the Plaintiffs further told John M. Jacobs to cease trading on the account until further notice.
132. On June 27, 2014, John M. Jacobs executed trades totaling \$51, 492.32 in violation of the stop trade order.
133. On July 15, 2014, Plaintiffs met with Robert J. Kenney, in his capacity as President of First Surety Corporation, Inc., to discuss alternative investment account options that First Surety Corporation, Inc. would find suitable as collateral for the surety bonds.
134. On July 21, 2014 the Plaintiffs requested by letter that Robert J. Kenney make a decision as to whether the proposed alternative investments would be acceptable to First Surety Corporation, Inc.
135. As of the date of this complaint, Robert J. Kenney has not responded to this letter.
136. On July 30, 2014 John M. Jacobs executed another trade totaling \$52,438.94 in violation of the multiple stop trade orders issued by the Plaintiffs.
137. The Plaintiffs have discovered that John M. Jacobs and Robert J. Kenney do not have registrations with the Securities and Exchange Commission or other regulatory agencies necessary to place the trades they have placed.
138. The Plaintiffs have discovered that John M. Jacobs and Robert J. Kenney do not have the licenses necessary to place the trades they have placed.
139. The Plaintiffs have discovered that the Defendant Jacobs Financial Group, Inc. is not a Registered Investment Advisor under the Investment Advisor Act of 1940, as was

represented to the Plaintiffs at the inception of the account, and the Defendants maintain a registration with the State of West Virginia.

140. In the Investment Management Agreement between Plaintiffs and Jacobs & Company, Inc., the stated fee for John M. Jacobs' advisory services is 0.5% of account assets, which John M. Jacobs and Jacobs & Company, Inc. were to withdraw from the account.

141. The Plaintiffs have discovered that John M. Jacobs and Jacobs & Company, Inc. have been withdrawing 1.25% of account assets from the account as advisory fees.

142. The Plaintiffs have been told by John M. Jacobs, as recently as June 2014, that the advisory fees for the collateral account were 0.5% of assets.

143. The Plaintiffs have instituted a "Statement of Claim" through the Financial Industry Regulatory Authority's (FINRA) arbitration program for the Plaintiffs claims against the Defendants as it relates to the investment of the Collateral Account.

144. The Defendants; John M. Jacobs and Jacobs & Company, Inc., have elected to not respond to the FINRA Statement of Claim.

145. It was determined by FINRA that FINRA does not have jurisdiction over Defendants John M. Jacobs and Jacobs & Company, Inc. because they lack registration with the SEC and FINRA.

146. The Plaintiffs bear a high risk of irreparable harm should an injunction against Defendants not be granted.

147. According to Securities and Exchange Commission filings, the Defendants' corporations are in danger of insolvency, as evidenced by a filing with said Commission

in July, 2014, which shows the Defendants obtained a Four-Million Five-Hundred Thousand Dollar (\$4,500,000.00) financing to pay delinquent State and Federal Taxes, as well as to pay outstanding judgments against them.

148. The Defendants bear no risk of harm should the injunction be granted.

149. There exists a danger that should the Collateral Account be seized by the Defendants it could be attached by their creditors, and any recovery of the Collateral Account proceeds by the Defendants would be impossible.

150. As of the date of this amended filing, the Defendants issued a notice to Wellington Shields & Co. that they are exercising "exclusive control" over the Collateral Account.

151. The Defendants, on January 2, 2015, took \$1,945.82 from the Collateral Account.

152. The Plaintiffs have no means, other than the Court granting an injunction, to stop the Defendants from taking the Plaintiffs money from the Collateral Account.

153. Given the evidence that exists of fraud, tortious acts, conspiratorial behavior, and other wrongdoing on the part of the Defendants, the Plaintiffs are likely to succeed in a trial on the merits of this case.

154. The Public Interest favors granting the injunction, as the State of West Virginia has an interest in seeing that Securities and Insurance laws of this State are upheld, and that violators of these laws should not receive a benefit for their wrongdoing.

155. The Plaintiffs have no adequate remedy at law to prevent further conspiratorial acts by the Defendants, or to prevent the Defendants from accessing, confiscating, or trading on the Collateral Account.

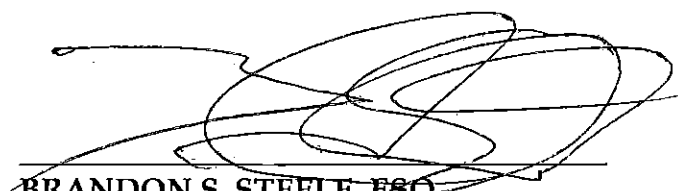
WHEREFORE, the Plaintiffs, OMEGA FACILITY SERVICES, SOLUTIONS, AND SURETY, LLC, JEFFREY R. BROWN, and SUSAN L. BROWN, demand judgment of and from the Defendants, JACOBS & CCOMPANY, INC., JACOBS FINANCIAL GROUP, INC., FS INVESTMENTS, INC., FIRST SURETY CORPORATION, INC., TRIANGLE SURETY AGENCY, INC., JOHN M. JACOBS, and ROBERT J. KENNEY, and each of them in such amount as will compensate the Plaintiffs for their losses and damages as the Court shall determine; for punitive and exemplary damages, and attorney's fees; that the Court enter an ORDER rescinding the Indemnity Agreement, Collateral Account Control Agreement, and any other contracts between Plaintiffs and Defendants, that the Court, in equity, enter an ORDER prohibiting the Defendants from accessing the Collateral Account, attaching the Collateral Account, or deeming themselves insecure during the pendency of this action, from accessing the Collateral Account for the purpose of paying their attorney's fees and; to enter an ORDER allowing the Plaintiffs to sell all securities and move the funds to another custodian acceptable to the Court, and allow the Plaintiffs to invest the funds with the successor custodian in a conservative manner during the pendency of these proceedings, reasonable attorneys fees, and any and all such other and further relief as the Court shall deem appropriate.

THE PLAINTIFFS DEMAND A TRIAL BY JURY.

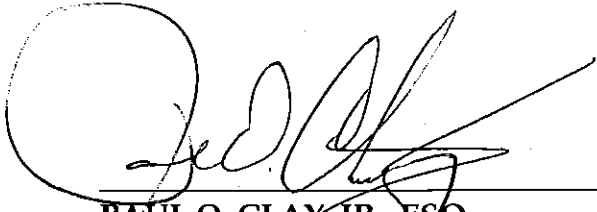
Respectfully Submitted,

OMEGA FACILITY SERVICES,
SOLUTIONS, AND SURETY, LLC
JEFFREY R. BROWN
SUSAN L. BROWN

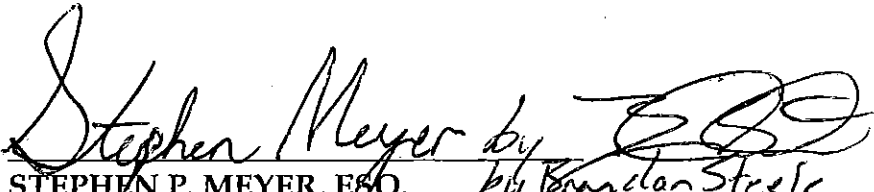
BY COUNSEL



BRANDON S. STEELE, ESQ.
LAW OFFICES OF PAUL O. CLAY, JR.
WVSB #12423
101 W. MAPLE AVE.
P.O. BOX 746
FAYETTEVILLE, WV 25840
304-574-2182
304-574-2183



PAUL O. CLAY, JR., ESQ.
LAW OFFICES OF PAUL O. CLAY, JR.
WVSB #742
101 W. MAPLE AVE.
P.O. BOX 746
FAYETTEVILLE, WV 25840
304-574-2182
304-574-2183



STEPHEN P. MEYER, ESQ. *by Brandon Steele*
MEYER, FORD, GLASSER, AND RADMAN, PLLC
WVSB #2541
P.O. BOX 11090

CHARLESTON, WV 25339

304-345-3900

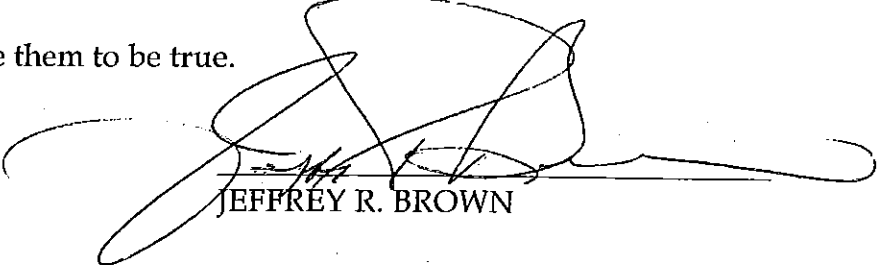
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AFFIDAVIT

STATE OF WEST VIRGINIA,

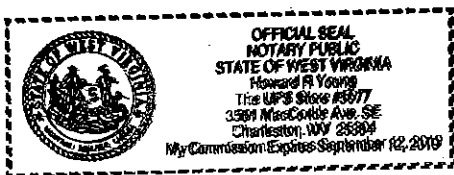
COUNTY OF FAYETTE, SS:

JEFFREY R. BROWN and SUSAN L. BROWN, having been by me first duly sworn, upon oath state that they have read said Amended Complaint and know the contents thereof, and that the allegations therein contained are true, except insofar as the same are therein stated to be on information and belief, and that insofar as the same are therein so stated, they believe them to be true.


JEFFREY R. BROWN


SUSAN L. BROWN

Taken, subscribed and sworn to by JEFFREY R. BROWN and SUSAN L. BROWN, before the undersigned notary public in and for the county and state aforesaid, on this the 16 day of APRIL, 2015.




Notary Public

My commission expires: 9/12/2019