

03-1867-CD
STEPHEN R. VOLPE vs. SWIFT KENNEDY & ASSOCIATES, INC. et al.

Date: 6/25/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 02:47 PM

ROA Report

Page 1 of 6

Case: 2003-01867-CD

Current Judge: Fredric Joseph Ammerman

Stephen R. Volpe vs. Swift Kennedy and Associates, Inc., Helpmates, Inc.

Civil Other

Date		Judge
12/19/2003	Filing: Civil Complaint Paid by: Carl Belin, Esq. Receipt number: 1870786 Dated: 12/19/2003 Amount: \$85.00 (Check)2 CC to Atty. 5 CC to Shff.	No Judge
1/27/2004	Entry of Appearance, filed on behalf of Defendants: Swift, Kennedy & Assoc., and Helpmates, Inc., filed by s/Rodney A. Beard, Esq. No CC	No Judge
2/17/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
2/26/2004	Answer, New Matter, and Counterclaim. filed by, s/Rodney A. Beard, Esquire Verification s/Rodney Moline Certificate of Service 2 cc to Atty	No Judge
3/25/2004	Plaintiff's Reply To Defendants' New Matter And Answer To Counterclaim. filed by, s/Carl A. Belin, Jr., Esquire Verification s/Stephen R. Volpe Certificate of Service 4 cc Atty Belin	No Judge
7/11/2005	Certificate of Service of Plaintiff's Second Set of Interrogatories and Second Request for Production of Documents on Rodney A. Beard Esquire on July 8, 2005 filed by s/ Carl A. Belin Jr Esq. No CC.	No Judge
8/22/2005	Præcipe, kindly change my address as follows: Rodney A. Beard Beard Law Company 320 Rolling Ridge Drive, Suite A Bellefonte, PA 16823 Filed by s/ Rodney A. Beard, Esquire. No CC	No Judge
2/9/2006	Affidavit of Stephen R. Volpe, filed by s/ Carl A. Belin Jr. Esq. 3CC Atty Belin	No Judge
	Certificate of Service, filed. Certified copy of Motion of Plaintiff for Partial Summary Judgment, Exhibits in Support of Motion of Plaintiff for Partial Summary Judgment, and Affidavit of Stephen R. Volpe on the 9th day of February, 2006 to Rodney A. Beard Esq., filed by s/ Carl A. Belin Jr Esq. 2CC Atty Belin	No Judge
	Motion of Record for Partial Summary Judgment, filed by s/ Carl A. Belin, Jr., Esquire. 3CC Atty. Belin	No Judge
	List of Exhibits in Support of Motion of Plaintiff For Partial Summary Judgment. Filed by s/ Carl A. Belin, Jr., Esquire. 2CC Atty. Belin	No Judge
2/16/2006	Order, NOW, this 14th day of Feb., 2006, Ordered that argument on Attorney Belin's Motion for Partial Summary Judgment in the above-captioned matter has been scheduled for the 3rd day of march, 2006, at 10:30 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Belin	Fredric Joseph Ammerman
2/23/2006	Order, NOW, this 22nd day of Feb., 2006, upon consideration of the Plaintiff's Motion for partial judgment, (see original). Oral argument on the said Motion shall be heard by the Court on May 11, 2006 at 9:00 a.m., Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Belin	Fredric Joseph Ammerman
3/9/2006	Defendants' Motion for Partial Summary Judgment, filed by s/ Rodney A. Beard, Esquire. No CC	Fredric Joseph Ammerman
	Defendant's Response to Plaintiff's Motion For Partial Summary Judgment, filed by s/ Rodney A. Beard Esq. No CC.	Fredric Joseph Ammerman
	Affidavit, filed by s/ James J. Calistri. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
3/9/2006	Certificate of Service, filed. Sent a certified copy of the Affidavit of James J. Calistri, in the above caption matter on the 8th day of March, 2006 on Carl A. Belin Jr Esq., filed by s/ Rodney A. Beard Esq. 1CC atty	Fredric Joseph Ammerman
	Certificate of Service, filed. A certified copy of Order in the above-captioned matter to Rodney A. Beard Esq., on the 24th day of February 2006, filed by s/ Carl A. Belin Esq. No CC.	Fredric Joseph Ammerman
3/13/2006	Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.21, filed by s/ Rodney A. Beard Esq. No CC. In Re: David J. Hopkins/ The Hopkins Law Firm.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.21, filed by s/ Rodney A. Beard Esq. No CC. In Re: Swift Kennedy Financial Co., Inc./James D. Curtis.	Fredric Joseph Ammerman
	Order, NOW, this 10th day of March, 2006, upon consideration of Defendants' Motion for Partial Summary Judgment and pursuant to Local Rule 1035.2(a), it is the Order of this Court: 1. The Plaintiff shall file a written response to said motion within 30 days after service thereof: 2. Defs. hav already filed a Brief in support of said Motion. Therefore, Plff. shall file a reply brief within 20 days after receipt of Defs.' Brief 3. Oral argument on the said Motion shall be heard by the Court on May 11, 2006 at 9:00 a.m., Courtroom #1, Clfd County Courthouse. By The Court, /s/ Fredric J. Ammerman, Pres. Judge.	Fredric Joseph Ammerman
3/14/2006	Praecipe: Kindly file the attached deposition transcripts: 1. Darrin Carlson 2. James J. Calistri 3. Linda Barnacastle 4. Rodney Moline 5. Tammy Jean Jewell 6. Stephen R. Volpe 7. Scott Carlson Filed by s/ Rodney A. Beard, Esquire. 1CC Atty. (copy with each transcript)	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #1, Deposition of Darrin Carlson, Friday June 24, 2005, filed	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #2, Deposition of James J. Calistri, Tuesday June 28, 2005, filed.	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #3, Deposition of Linda Barnacastle, November 21, 2005, filed.	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #4, Deposition of Rodney Moline, June 24, 2005, filed	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #5, Deposition of Tammy Jean Jewell, June 24, 2005, filed.	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #6, Deposition of Stephen R. Volpe, August 31, 2005, filed.	Fredric Joseph Ammerman
	Copy of Transcript of Proceedings #7, Deposition of Scott Carlson, Monday June 27, 2005, filed.	Fredric Joseph Ammerman
3/20/2006	Certificate of Service, filed. Served the attached Order in the above captioned matter on the 16th day of March 2006 to Carl A. Belin Jr Esq., filed by s/ Rodney A. Beard Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
3/29/2006	Certificate of Service, filed. Sent a true and correct copy of Brief in Support of Plaintiff's Motion for summary Judgment in the above-captioned matter on the 29th day of March 2006 to David S. Meholick, Court Administrator and Rodney A. Beard Esq. filed by s/ Carl A. Belin Jr Esq. 3CC atty.	Fredric Joseph Ammerman
4/7/2006	Affidavit, filed by s/ Stephen R. Volpe. 5CC Atty Belin	Fredric Joseph Ammerman
	Certificate of Service, filed. A true and correct copy of Plaintiff's Answer to Defendant's Request for Production of Documents (set two) in the above-captioned matter on the 7th day of April 2006 to Rodney A. Beard Esq., filed by s/ Carl A. Belin Jr Esq. 2CC Atty Belin	Fredric Joseph Ammerman
	Plaintiff's Answer to Defendants' Motion for Partial Summary Judgment, filed by s/ Carl A. Belin Jr Esq. 5CC Atty Belin.	Fredric Joseph Ammerman
	Plaintiff's Answer to Request for Admissions and Accompanying Interrogatory, filed by s/ Carl A. Belin Jr Esq. 5CC Atty Belin.	Fredric Joseph Ammerman
	Certificate of Service, filed. Sent a true and correct copy of Brief In Opposition to Defendant's Partial Motion for Summary Judgment in the above-captioned matter on the 7th day of April 2006 to Rodney A. Beard Esq., filed by s/ Carl A. Belin Jr Esq. 5CC Atty Belin.	Fredric Joseph Ammerman
4/10/2006	Praecipe, filed. Kindly file the attached Affidavit of Linda Barnacastle in the above captioned matter, filed by s/ Rodney A. Beard Esq. NO CC.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a true and correct copy of Plaintiff's Answers to Request for Admissions and Accompanying Interrogatory in the above-captioned matter on the 7th day of April on Rodney A. Beard Esq., filed by s/ Carl A. Belin Jr. Esq. 4CC Atty Belin.	Fredric Joseph Ammerman
4/18/2006	Certificate of Service, filed. The original of Defendants' Brief in Opposition to Plaintiff's Motion for Partial Summary Judgment in the above captioned matter with the Court Administrator's Office and a true and correct copy of the Brief to Carl A. Belin Jr Esq., filed by s/ Rodney A. Beard Esq. 1CC Atty Beard.	Fredric Joseph Ammerman
5/11/2006	Motion To Compel Answers to Requests For Admissions, filed by s/ Rodney A. Beard, Esquire. 5CC Atty. Beard	Fredric Joseph Ammerman
5/12/2006	Order AND NOW, this 11 day of May 2006, upon consideration of the Defendants' Motion to Compel Answers to Requests for Admissions, it is the ORDER of this Court as follows: 1. The Plaintiff shall file a written response to said Motion within thirty (30) days after service thereof; 2. Oral argument on said Motion shall be heard by the Court on June 19, 2006 at 10:00 a.m. in Courtroom #1, Clearfield County Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 2CC Atty Beard.	Fredric Joseph Ammerman
5/23/2006	Order, NOW, this 19th day of May, 2006, Oral Argument on Defendants' Motion to Compel Answers to Request for Admissions is rescheduled for the 13th day of July, 2006, at 3:00 p.m., Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Beard	Fredric Joseph Ammerman
5/24/2006	Order, this 23rd day of May, 2006, after consideration of the Defendants' Motion for Partial Summary Judgment filed March 9, 2006, the Court finds as follows: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin, Beard	Fredric Joseph Ammerman
	Order, NOW, this 23 day of May, 2006, after consideration of the Plaintiff's Motion for Partial Summary Judgment filed Feb. 9, 2006, the Court finds as follows: (See original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin, Beard	Fredric Joseph Ammerman

Civil Other

Date		Judge
5/26/2006	Certificate of Service, filed. Served the attached Order in the above captioned matter on the 25th day of May to Carl A. Belin Jr. Esq., filed by s/ Rodney A. Beard Esq. 1CC to Atty.	Fredric Joseph Ammerman
5/30/2006	Plaintiff's Answer to Defendants' Motion to Compel Answers to Requests for Admissions, filed by s/ Carl A. Belin Jr Esq. 3CC Atty Belin.	Fredric Joseph Ammerman
	Certificate of Service, filed. Sent a certified copy of the attached Orders dated May 23, 2006, in the above-captioned matter to Rodney A. Beard Esq., filed by s/ Carl A. Belin Jr Esq. 3CC Atty Belin	Fredric Joseph Ammerman
7/17/2006	Order, NOW, this 13th day of July, 2006, following argument on the Defendant's Motion to Compel Answers to Request for Admissions filed on May 11, 2006, it is the Order that the said Motion to Compel is denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Belin, Beard	Fredric Joseph Ammerman
9/1/2006	Certificate of Readiness for Jury Trial, filed by s/ Carl A. Belin, Jr., Esquire. 3CC atty. Belin	Fredric Joseph Ammerman
12/19/2006	Praecipe for Entry of Appearance/Praecipe for Withdrawal of Appearance, filed. Please withdraw my appearance on behalf of Defendants Swift Kennedy & Associates Inc. and Helpmates Inc., filed by s/ Rodney A. Beard Esq. Please enter my appearance on behalf of the Defendants Swift Kennedy & Associates Inc. and Helpmates Inc., filed by s/ Mark S. Weaver Esq. No CC & copy to C/A.	Fredric Joseph Ammerman
12/20/2006	Petition For Continuance, filed by s/ Mark S. Weaver, Esquire. 3CC Atty. Weaver	Fredric Joseph Ammerman
12/29/2006	Conditional Consent to Defendants' Petition For Continuance, Fax, filed per Judge Ammerman. Filed by s/ Carl A. Belin, Jr. No CC	Fredric Joseph Ammerman
	Order, NOW, this 22nd day of Dec., 2006, Ordered that trial is continued from the Winter Term to the Spring Term of Court. In addition, a status conference has been scheduled for the 17th day of Jan., 2007 at 9:00 a.m. in Courtroom No. 1 of the Clfd. Co. Courthouse. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1 CC Attys: Belin, Weaver	Fredric Joseph Ammerman
1/18/2007	Order, NOW, this 17th day of Jan., 2007, following status conference among counsel and the Court, upon the agreement of counsel, it is the Order of this Court as follows: (see original). By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin, Weaver	Fredric Joseph Ammerman
3/14/2007	Certificate of Service, filed. That the undersigned has sent Plaintiff's Second Set of Interrogatories and Second Request for Production in the above-captioned matter to Mark S. Weaver Esq. on the 13th day of March 2007, filed by s/ Carl A. Belin Jr. Esq. NO CC.	Fredric Joseph Ammerman
4/2/2007	Plaintiff's Motion in Limine Re: Edwin Rosenthol, filed by s/ Carl A. Belin Jr. Esq. 4CC Atty Belin	Fredric Joseph Ammerman
	Plaintiff's Motion in Limine Re: Robert M. Glus, filed by s/ Carl A. Belin Jr Esq. 4CC Atty Belin.	Fredric Joseph Ammerman
4/5/2007	Plaintiff's Motion For Continuance In Re: Robert M. Glus, In Re: Edwin Rosenthol. Filed by s/ Carl A. Belin, Jr., Esquire. 4CC Atty. Belin	Fredric Joseph Ammerman
	Order, NOW, this 5th day of April, 2007, upon considering plaintiff's Motion in Limine in re: Edwin Rosenthol, Ordered that an argument is scheduled for the 10th day of May, 2007, at 11:00 a.m. in Courtroom 1. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Belin	Fredric Joseph Ammerman

Civil Other

Date		Judge
4/5/2007	Order, NOW, this 5th day of April, 2007, upon considering plaintiff's Motion in Limine in re: Robert M. Glus, it is Ordered that an argument is scheduled for the 10th day of May, 2007, at 11:00 a.m. in Courtroom 1. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Belin	Fredric Joseph Ammerman
4/9/2007	Certificate of Service, filed. Sent a certified copy of Plaintiff's Motion for Continuance and Order in Re: Edwin Rosenthol and RObert M Glus in the above-captioned to Mark S. Weaver Esq., filed by s/ Carl A. Belin Jr. Esq. 1CC Atty Belin.	Fredric Joseph Ammerman
	Order, this 5th day of April, 2007, Motion for Continuance is granted and the argument scheduled for May 10, 2007 at 11:00 a.m. is rescheduled for April 30, 2007 at 1:30 p.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Belin	Fredric Joseph Ammerman
4/10/2007	Order, NOW, this 9th day of April, 2007, Ordered that a Pre-Trial Conference shall be held on the 20th day of April, 2007, in Chambers at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Attys: Belin, Weaver	Fredric Joseph Ammerman
4/23/2007	Order, this 20th day of April, 2007, following pre-trial conference, it is Ordered: 1. Jury Selection will be held on May 1, 2007 commencing at 9:00 a.m. in Courtroom 1. 2. Jury Trial is scheduled for June 25, 26, and 27, 2007 commencing at 9:00 a.m. in Courtroom 1. (see original for further details) By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin, Weaver	Fredric Joseph Ammerman
5/1/2007	Motion For Continuance, filed by s/ James M. Connelly, Esquire. No CC Order, NOW, this 1st day of May, 2007, upon review and receipt of the Defendants' Motion for Continuance, in reference to argument on Motions in Limine and upon agreement of Plaintiff's counsel, it is Ordered that argument on said motions shall be held on the 3rd day of May, 2007, at 2:00 p.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Connelly	Fredric Joseph Ammerman
	Motion In Limine, filed by s/ James M. Connelly, Esquire. 1CC Atty. Connelly	Fredric Joseph Ammerman
5/3/2007	Plaintiff's Answer to Defendants' Motion in Limine, filed by s/ Carl A. Belin, Jr., Esquire. 3CC Atty. Belin	Fredric Joseph Ammerman
5/9/2007	Order, NOW, this 3rd day of May, 2007, Ordered that the Defense file an affidavit from Larry Lecker summarizing his testimony, with said affidavit to be filed with the record by no later than May 10, 2007. A courtesy copy shall be provided by Defense counsel to the Court and to Plaintiff's counsel. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Belin, Weaver	Fredric Joseph Ammerman
5/23/2007	Defendants' Answer to Plaintiff's Motion In Limine Re: Edwin Rosenthol, filed by Atty. Connelly 1 Cert. to Atty.	Fredric Joseph Ammerman
	Defendants' Answer to Plaintiff's Motion in Limine Re: Robert m. Glus, filed by Atty. Connelly 1 Cert. to Atty.	Fredric Joseph Ammerman

Date: 6/25/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 02:47 PM

ROA Report

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Case: 2003-01867-CD

Current Judge: Fredric Joseph Ammerman

Stephen R. Volpe vs. Swift Kennedy and Associates, Inc., Helpmates, Inc.

Civil Other

Date		Judge
6/6/2007	Order, this 5th day of June, 2007, after consideration of Plaintiff's Supplemental Brief on Summary Judgment, Plaintiff's request to have this Court reconsider the Summary Judgment Order of May 24, 2006 is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Belin, M. Weaver	Fredric Joseph Ammerman
6/8/2007	Order, this 6th day of June, 2007, Plaintiff's Motion in Limine re: Robert M. Glus is DENIED. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin Weaver	Fredric Joseph Ammerman
6/11/2007	Order, this 11th day of June, 2007, after consideration of the Defendants' Motion in Limine to Preclude Evidence Re: Paragraph No. 1 of Employment Agreement, it is Ordered that said motion is Denied. (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Belin, Weaver	Fredric Joseph Ammerman
6/20/2007	Order, this 20th day of June, 2007, after consideration of the Plaintiff's Motion in Limine re: Edwin Rosenthol is is the Order of this Court that said Motion if hereby Granted with respect to Rosenthol Report I. With respect to Rosenthol Report II it is Ordered that said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge.	Fredric Joseph Ammerman
6/25/2007	Certificate of Service, filed. That the undersigned has sent a true and correct copy of Plaintiff's Brief in Support of Motions in Limine and Supplemental Brief on Summary Judgment in the above-captioned matter on the 25th day April 2007 to Mark S. Weaver Esq., filed by s/ Carl A. Belin Jr Esq. NO CC.	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,

Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
AND HELPMATES, INC.,

Defendants

:
:
:
:
:
:
:

No. 03 - 1867 - CD

JURY TRIAL DEMANDED

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

DEC 19 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - - CD
vs. :
 :
SWIFT KENNEDY & ASSOCIATES, INC. : JURY TRIAL DEMANDED
AND HELPMATES, INC., :
Defendants :

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

(814) 765-2641 Ex 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - - CD
SWIFT KENNEDY & ASSOCIATES, INC. : JURY TRIAL DEMANDED
AND HELPMATES, INC., :
Defendants :

COMPLAINT

AND NOW comes Plaintiff, Stephen R. Volpe, by and through his attorneys, Belin & Kubista, and files the following complaint and in support thereof avers as follows:

1. Stephen R. Volpe is an individual residing at 1017 Green Glen Drive, DuBois, Clearfield County, Pennsylvania 15801 ("Volpe").

2. Defendant Swift Kennedy & Associates, Inc., is a Pennsylvania business corporation with an office and place of business at 994 Beaver Drive, DuBois, Clearfield County, Pennsylvania 15801 ("SKA").

3. Defendant Helpmates, Inc., is a Pennsylvania business corporation, with an office and place of business at 225 South Street, Ridgway, Elk County, Pennsylvania 15853 ("HI").

4. That Volpe entered in a Stock Purchase Agreement with HI for the sale of all the capital stock of SKA on March 26, 2002 ("sales agreement"), a copy of which is hereto attached as Exhibit "A."

5. That in Paragraph 25 of the sales agreement HI agreed to cause SKA to enter into an employment agreement with Volpe on the terms and conditions set forth in Exhibit "E" to the sales agreement.

6. That the sales agreement was amended by a First Addendum dated the ____ day of April, 2002, which provided that a life insurance policy of \$500,000.00 would be secured on the life of G. Scott Carlson as security for a guaranty agreement to be executed by the Carlsons to secure the guarantee of the unpaid balance of the sales agreement, a copy of the First Addendum is hereto attached and marked Exhibit "B."

7. That the sales agreement was amended by a Second Addendum which amended the sales agreement by providing for a change in the time schedule of the employment contract.

8. That HI caused SKA to enter into an employment agreement with Volpe dated April 30, 2002, which had a term of five (5) years from the date of the execution of the agreement,

April 30, 2002, together with the right of Volpe to renew the agreement on a year to year basis "for so long as Stephen Volpe desires," a copy of the Employment Agreement is hereto attached and marked Exhibit "C."

9. That under the Employment Agreement Volpe was to receive a salary of \$35,000.00 per year, a 50% commission on all new business and renewals of new business, a 10 week vacation, health insurance benefits which was to be equivalent to Keystone Select Blue until such time as Volpe and/or Mrs. Volpe reached an age and would otherwise be eligible for Medicare, and for an automobile as provided therein.

10. That in addition to the foregoing benefits set forth in the Employment Agreement Volpe was to receive expenses, a credit card, continuing educational requirements, licensing fees, and such other expenses as are necessary for Volpe to continue to sell and broker insurance.

COUNT I
VOLPE v. SKA and HI

11. Volpe hereby incorporates Paragraphs 1 through 10 of this Complaint and makes them a part hereof.

12. That contrary to the agreement, SKA suspended Volpe from performing any duties under the Employment Agreement on

August 18, 2003, by a letter, which is hereto attached as Exhibit "C," but continued to pay him in accordance with the agreement.

13. That Volpe was terminated by a letter from Rodney Beard, Esquire, to Carl A. Belin, Jr., Esquire, dated October 27, 2003, a copy of which is hereto attached as Exhibit "D."

14. That Volpe was hired for a definite term of 5 years and for so long as Volpe desired to work for SKA and the termination constitutes a breach of Paragraph 5 of the Employment Agreement in that:

a. Volpe and SKA or HI never agreed to any mutual termination of the agreement;

b. Volpe was never given any 30 day notice regarding any violations of the agreement;

c. no cause existed nor was any 30 day notice given to Volpe regarding any reason to terminate the contract;

d. SKA is neither in liquidation, bankruptcy, or any other plan to terminate its business.

15. That as a result of the termination of Volpe's employment agreement contrary to the agreement, Volpe will lose the following benefits:

a. a salary equal to \$35,000.00 a year during the remainder of the five (5) year term of this agreement;

b. commissions on new business which he will be prevented from writing and for commissions he would have received for his life;

c. health insurance coverage from the date of his termination until he would otherwise be eligible for Medicare;

d. the use of an automobile as provided for in said agreement; and

e. such other benefits as provided in the employment agreement.

15. That as a result of the termination, Volpe was required to return the Cadillac provided him under the Employment Agreement and as a result he is owed the following:

a. The proportionate share of

OnStar renewal	\$ 393.90
----------------	-----------

b. Phone prepaid	\$ 79.78.
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16. That Volpe was not paid for his July expenses of \$416.46.

WHEREFORE, that Plaintiff demands judgment from the Defendants in an amount equal to the loss of the aforesaid benefits in an amount in excess of \$25,000.00.

COUNT II
VOLPE v. SKA

17. Volpe hereby incorporates Paragraphs 1 through 14 of this Complaint and makes them a part hereof.

18. That SKA has received commissions from Swift Hopkins, Inc. for property and casualty referrals that were not a part of the sales agreement but were the property of Volpe.

19. That the referral commissions received by SKA for the years of 2001, 2002, and 2003 which amounted to approximately \$5,000.00.

20. That SKA has failed to account for the referral commissions despite the demand of Volpe on several occasions.

WHEREFORE, Plaintiff demands judgment from the Defendants in an amount equal to the property and casualty referral commissions received by SKA in the approximate amount of \$5,000.00.

COUNT III
VOLPE v. HI

22. Volpe hereby incorporates Paragraphs 1 through 18 of this Complaint and makes them a part hereof.

23. That HI has violated the sales agreement in that it failed to secure a \$500,000 life insurance policy on Scott Carlson as required by the first addendum to the sales agreement.

24. That as a result, Volpe is entitled to enter judgment on the guaranty agreement against HI in the amount of the guaranty of \$480,000.00.

WHEREFORE, Plaintiff demands judgment from the Defendant HI in the amount of \$480,000.00.

COUNT IV
STEPHEN R. VOLPE v. HI

25. Volpe hereby incorporates Paragraphs 1 through 21 of this Complaint and makes them a part hereof.

26. Subsequent to the closing of the "stock sale," HI approached Volpe and requested that he agree to reclassifying the sale as an "asset sale" rather than as a "stock sale" for

tax purposes in order for HI to realize certain tax advantages from the reclassification.

27. An "asset sale" would result in an increase to Volpe's state and federal income tax liability as contrasted with his liability under a "stock sale."

28. To induce Volpe to reclassify the sale, HI agreed by an oral agreement to pay to Volpe an additional amount equal to the additional taxes that Volpe was required to pay as a result of the reclassification.

29. In reliance upon HI's oral agreement, Volpe did reclassify the sale as an "asset sale" and did incur additional tax liability and will incur additional tax liability in the future.

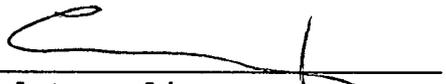
30. Due to the reclassification, Volpe paid an additional tax liability of \$72,666.00 for the year of 2002 and will incur future tax liability of \$2,934.00.

31. Volpe has made demand upon HI for payment of \$75,600.00, but HI has failed and refused to pay said additional tax liability thereby breaching the oral agreement.

WHEREFORE, Plaintiff demands judgment against Defendant SKA, in the amount of \$75,600.00 on Count IV together with interest from the date of paying the additional tax liability.

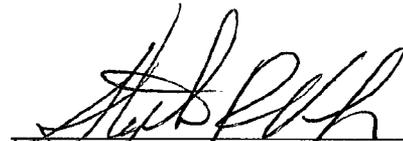
JURY TRIAL DEMANDED AS TO ALL COUNTS.

BELIN & KUBISTA,

By 
Carl A. Belin, Jr., Esq.

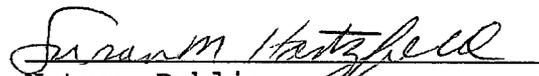
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared
STEPHEN R. VOLPE, being duly sworn according to law, deposes and
says that the facts set forth in the foregoing Complaint are
true and correct to the best of his knowledge, information and
belief.



Stephen R. Volpe

Sworn and subscribed before me this 18th day of
December, 2003.



Notary Public

NOTARIAL SEAL
SUSAN M. HARTZFELD, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD COUNTY
MY COMMISSION EXPIRES AUGUST 16, 2005

BELIN & KUBISTA
ATTORNEYS AT LAW
15 NORTH FRONT STREET
P. O. BOX 1
CLEARFIELD, PENNSYLVANIA 16830

WILLIAM A. SHAW
FIDELITY

DEC 19 2003
3:18 PM
PL 85-00
SEC 4
SHAW

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Praecipe

Filed on behalf of Defendants: Swift,
Kennedy & Associates, Inc. and
Helpmates, Inc.

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

2766 W. College Avenue, Suite 100
State College, PA 16801

(814) 237-3101

FILED

JAN 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

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No. 03-1867-CD

PRAECIPE

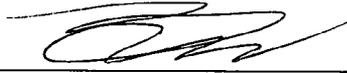
TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of the Defendants in the above captioned matter.

Respectfully submitted:

Date

1/26/04


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
2766 W. College Avenue, Suite 100
State College, PA 16801
(814) 237-3101

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Praecipe was served by U.S. First Class Mail, postage prepaid in State College, Pennsylvania, on the 26th day of January, 2004, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

1/26/04
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
2766 W. College Avenue, Suite 100
State College, PA 16801
(814) 237-3101

In The Court of Common Pleas of Clearfield County, Pennsylvania

VOLPE, STEPHEN R.

Sheriff Docket # 14960

VS.

03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC. AI

COMPLAINT

SHERIFF RETURNS

NOW DECEMBER 26, 2003 AT 2:45 PM SERVED THE WITHIN COMPLAINT ON SWIFT KENNEDY & ASSOCIATES INC., DEFENDANT AT EMPLOYMENT, 994 BEAVER DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SANDRA GORDEN, CLIENT SERVICES REP. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: MCCLEARY

NOW DECEMBER 23, 2003, THOMAS KONTES, SHERIFF OF ELK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON HELPMATES, INC., DEFENDANT.

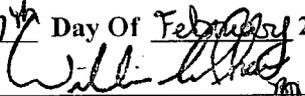
NOW DECEMBER 30, 2003 SERVED THE WITHIN COMPLAINT ON HELPMATES, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF ELK COUNTY. THE RETURN OF SHERIFF KONTES IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED JILL SALER, CHIEF FINANCIAL OFFICER.

Return Costs

Cost	Description
49.68	SHERIFF HAWKINS PAID BY: ATTY CK# 4971
20.00	SURCHARGE PAID BY: ATTY CK# 4972
22.20	ELK COUNTY SHERIFF PAID BY: ATTY CK# 4973

Sworn to Before Me This

17th Day Of February 2004



WILLIAM A. SHAW
Prothonotary

My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,



Chester A. Hawkins
Sheriff

FILED

01:51 PM
FEB 17 2004
GRL

William A. Shaw
Prothonotary/Clerk of Courts

Affidavit of Service

Stephen R. Volpe
vs.

Helpmates, Inc., et al.

No. 1867 Term, 20 03

Returnable within _____ days
from date of service hereof.

NOW December 30, 20 03 at 1:30 o'clock P.M.

served the within Complaint on Helpmates, Inc.

at 225 South Street, Suite 222, Udarbe Complex, Ridgway, Elk County, PA

by handing to Jill Salter, Chief Financial Officer,

a true and attested copy of the original Complaint and made

known to her the contents thereof. Sheriff's Costs - \$22.20 PAID

Sworn to before me this 6th

day of January A.D. 20 04

Thomas H. Kronenwetter
My Commission Expires January 7, 2008
Prothonotary

So answers,
Thomas C. Rontz
Earl C. Portious
Sheriff
Deputy



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 14960

STEPHEN R. VOLPE

VS

SWIFT KENNEDY & ASSOCIATES INC

TERM & NO. 03-1867-CD

DOCUMENT TO BE SERVED:

COMPLAINT

SERVE BY: 01/18/2004

MAKE REFUND PAYABLE TO:

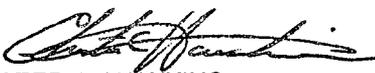
BELIN & KUBISTA, ATTORNEYS

SERVE: HELPMATES, INC.

ADDRESS: 225 SOUTH STREET, RIDGWAY, PA.

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of
CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF
ELK COUNTY, Pennsylvania to execute this writ. This
Deputation being made at the request and risk of the Plaintiff this 23rd Day of
DECEMBER 2003

Respectfully,


CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Answer, New Matter
and Counterclaim

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

2766 W. College Avenue, Suite 100
State College, PA 16801

(814) 237-3101

FILED

FEB 26 2004

0/11:40/100
William A. Shaw

Prothonotary/Clerk of Courts

2 cent to 1400

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

NOTICE TO PLEAD

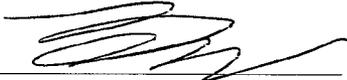
TO: STEPHEN R. VOLPE
c/o CARL A. BELIN, JR., ESQUIRE

You are hereby notified to plead to the New Matter and Counterclaims within twenty (20) days of service hereof, or judgment may be entered against you.

Respectfully submitted:

Date

2/26/04


Rodney A. Beard, Esquire
Attorney for Defendants
Sup. Ct. I.D. No. 49909
2766 West College Avenue, Suite 100
State College, PA 16801
(814) 237-3101

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

ANSWER, NEW MATTER & COUNTERCLAIM

AND NOW, come the Defendants, by and through their counsel, Rodney A. Beard, Esquire, and file the following Answer, New Matter, and Counterclaim, and in support thereof aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.

4. Admitted in part and denied in part. It is admitted that Volpe and HI entered into an agreement for Volpe to sell and HI to purchase all of the outstanding capital stock of SKA. It is denied that a copy of the Sales Agreement was attached to the Complaint as Exhibit "A." The version of the Complaint served upon Defendants did not have any documents attached. A copy of the Stock Purchase Agreement that was entered into between Volpe and HI on March 26, 2002, is attached hereto as Exhibit "A."

5. Admitted in part and denied in part. Paragraph 25 of the Sales Agreement provides as follows:

"Other Agreements. Upon Closing, the Buyer shall cause the Company to enter into an employment agreement with Stephen R. Volpe

substantially upon the same terms and conditions as attached hereto as Exhibit E.”

To the extent Paragraph 5 of Volpe’s Complaint attempts to characterize the above provision, it is averred that the above provision is contained in a written document which speaks for itself and any characterization by Volpe is denied.

6. Admitted in part and denied in part. It is admitted that the Sales Agreement was amended by a First Addendum. It is denied that the First Addendum was attached to Volpe’s Complaint as Exhibit “B.” To the contrary, no documents were attached to the Complaint as served upon Defendants. Attached hereto as Exhibit B is a true and correct copy of the First Addendum to the Sales Agreement. To the extent Paragraph 6 of Volpe’s Complaint attempts to characterize any provision of the First Addendum, same is denied as the First Addendum is a written document which speaks for itself.

7. Admitted in part and denied in part. It is admitted that the Sales Agreement was amended by a Second Addendum. A true and correct copy of the Second Addendum is attached hereto, marked Exhibit C, and incorporated herein. To the extent Paragraph 7 of Volpe’s Complaint attempts to characterize any provision of the Second Addendum, same is denied as the Second Addendum is a written document which speaks for itself.

8. Admitted in part and denied in part. It is admitted that Volpe and SKA entered into an Employment Agreement dated April 30, 2002. It is denied that a copy of the Employment Agreement was attached to Volpe’s Complaint as Exhibit “C.” To the contrary, no documents were attached to the Complaint as served on Defendants. Furthermore, attached hereto as Exhibit “D” is a copy of the Employment Agreement. To the extent Paragraph 8 of Volpe’s Complaint attempts to characterize any provision of the Employment Agreement, same is denied as the Employment Agreement is a written document which speaks for itself.

9. Admitted in part and denied in part. It is admitted that the Employment Agreement provided for certain salary and benefits for Volpe. To the extent Paragraph 9 of Volpe's Complaint attempts to characterize any provision of the Employment Agreement, same is denied as the Employment Agreement is a written document which speaks for itself.

10. Admitted in part and denied in part. It is admitted that the Employment Agreement provided for Volpe to receive certain benefits. To the extent paragraph 10 of Volpe's Complaint attempts to characterize any provision of the Employment Agreement, same is denied as the Employment Agreement is a written document which speaks for itself.

COUNT I

VOLPE v. SKA and HI

11. Paragraph 11 is a paragraph of incorporation to which no response is required other than to incorporate the responses heretofore and hereafter presented.

12. Admitted in part and denied in part. It is admitted that SKA suspended Volpe on or about August 18, 2003. It is denied that a copy of the letter suspending Volpe was attached to Volpe's Complaint as Exhibit "C." To the contrary, no exhibits were attached to the Complaint as served on Defendants. Furthermore, attached hereto as Exhibit "E," is a copy of the letter by which Volpe was suspended. It is further denied that such suspension was contrary to the Agreement. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement, because HI was not a party to the Employment Agreement.

13. Admitted in part and denied in part. It is admitted that Rodney Beard, Esquire, forwarded correspondence to Carl A. Belin, Jr., Esquire, as counsel for Volpe, as part of a negotiated separation of Mr. Volpe from SKA. It is denied that a copy of the letter is attached to

Volpe's Complaint as Exhibit "D." To the contrary, no exhibits were attached to Plaintiff's Complaint as served on Defendants. Furthermore, attached hereto as Exhibit "F" is a copy of the letter dated October 27, 2003. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement.

14. Admitted in part and denied in part. It is admitted that SKA is neither in liquidation, bankruptcy, or in any other plan to terminate its business. Any characterization of the Employment Agreement contained in Paragraph 14 of Volpe's Complaint is denied because the Employment Agreement is a written document which speaks for itself. Furthermore, it is specifically denied that Volpe and SKA never agreed to any mutual termination of the Agreement. To the contrary, after many discussions and negotiations between the parties, it became clear that Volpe did not wish to work for SKA pursuant to the Employment Agreement and the mutual benefit of all parties would best be served by having Mr. Volpe separate from employment with SKA. Furthermore, it is denied that Volpe was not provided any 30 day notice regarding violations of the Agreement. To the contrary, attached hereto as Exhibit "G" and incorporated herein is a letter from Rodney A. Beard, Esquire, on behalf of SKA, directed to David J. Hopkins, Esquire, as prior counsel for Volpe, specifying many violations of the Employment Agreement being engaged in by Mr. Volpe. In addition, it is denied that Volpe was not given 30 day notice of the reasons to terminate employment. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement.

15. Admitted in part and denied in part. It is admitted that Volpe will lose certain salary and benefits as a result of his termination from employment at SKA. To the extent Paragraph 15 of Volpe's Complaint attempts to characterize such loss of benefits as being the

fault of SKA and/or HI, same is denied. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement.

Second 15. Admitted in part and denied in part. It is admitted that Volpe was required to return a Cadillac automobile to SKA following termination of his employment with SKA. It is denied that Volpe is owed any money for OnStar renewal and/or prepaid phone. To the contrary, no such expenses were authorized by SKA. Any remaining averments of this paragraph are denied as conclusions of law. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement.

16. Denied. It is denied that Volpe incurred legitimate expenses in the amount of \$416.46 in July. Furthermore, this paragraph is denied as incapable of specific response, as it is believed and therefore averred that Volpe did not submit any such expenses to SKA and/or HI. It is further denied that HI would have any obligation to Volpe for any claims made pursuant to the Employment Agreement and/or for reimbursement of any such expenses.

WHEREFORE, Defendants request that judgment be entered in their favor and that Volpe's Complaint be dismissed with prejudice.

COUNT II

VOLPE v. SKA

17. Paragraph 17 is a paragraph of incorporation to which no response is required other than to incorporate the responses heretofore and hereafter presented.

18. Denied. It is denied that SKA received commissions that were the property of Volpe. Any allegation of property rights to such commissions is a conclusion of law which is specifically denied.

19. Denied. It is denied that Volpe was entitled to any referral commissions from Swift Hopkins, Inc., and strict proof thereof is demanded. By way of further response, it is averred that if Volpe had a separate agreement with Swift Hopkins, Inc., which was undisclosed to SKA, such agreement would not give rise to any claim against SKA.

20. Denied. It is denied that Volpe has made demand on SKA for any accounting. Any agreement for referral commissions between Swift Hopkins, Inc., and Volpe was undisclosed or incapable of determination, and any allegations regarding the same are therefore denied.

WHEREFORE, Defendants request that judgment be entered in their favor and that Volpe's Complaint be dismissed with prejudice.

COUNT III

VOLPE v. HI

21. Missing.

22. Paragraph 22 is a paragraph of incorporation to which no response is required other than to incorporate the responses heretofore and hereafter presented.

23. Denied. It is denied that HI violated the Sales Agreement. To the contrary, in regard to any life insurance policy which Scott Carlson was supposed to obtain, any such obligation was on the part of Scott Carlson and not HI. Furthermore, it is believed and therefore averred that Scott Carlson was unable to obtain such life insurance policy.

24. Denied. The allegations of this paragraph are denied as incapable of specific response. The allegations referred to a "Guarantee Agreement," which is not otherwise defined and is not attached to the Complaint as a writing. It is further denied as a conclusion of law that Volpe is entitled to enter judgment against HI in any amount.

WHEREFORE, Defendants request that judgment be entered in their favor and that Volpe's Complaint be dismissed with prejudice.

COUNT IV

VOLPE v. HI

25. Paragraph 25 is a paragraph of incorporation to which no response is required other than to incorporate the responses heretofore and hereafter presented.

26. Admitted in part and denied in part. It is admitted that the parties agreed to make a tax election for the stock sale transaction to be treated as an asset sale pursuant to certain provisions of the Internal Revenue Service Code. In regard to any allegations of this paragraph pertaining to the reason(s) and/or mechanism for reclassifying the sale, same are denied and strict proof thereof demanded.

27. Denied. The specific tax effect and results of various tax treatments of the transaction on Volpe are specifically within Volpe's own knowledge and HI has no specific knowledge regarding Volpe's tax returns and/or income tax liability, and same are therefore denied, and strict proof thereof demanded.

28. Denied. The allegations of this paragraph are denied as incapable of specific response. By way of further response, the allegations allege the existence of "an oral agreement," but failed to specify any particulars regarding such oral agreement and/or refer to timing issues regarding payment of additional taxes. Furthermore, any allegations of inducement are legal conclusions and specifically denied.

29. Denied. It is denied that Volpe incurred additional tax liability that he would not have incurred under the eventual and correct tax treatment of the transaction. To the contrary, the taxes owing by Volpe as a result of the transaction are specifically within Volpe's own

knowledge and HI has no information regarding tax returns filed by Mr. Volpe to report the transaction. Furthermore, any allegations of this paragraph regarding reliance by Volpe are denied as legal conclusions.

30. Denied. It is denied that Volpe paid an additional tax liability of \$72,666 for 2002 that would not have been incurred in any event as a result of the stock sale transaction. Furthermore, it is denied that Volpe will incur any future tax liability as this information is not within the specific knowledge of HI, and HI has no information regarding tax returns filed by Mr. Volpe, and same is therefore denied.

31. Denied. It is denied that Volpe has demanded \$75,600 from HI and strict proof thereof is demanded. It is further denied that HI has breached any agreement with Volpe in regard to tax treatment of the stock sale transaction.

32. WHEREFORE, Defendants request that judgment be entered in their favor and that Volpe's Complaint be dismissed with prejudice.

NEW MATTER

33. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

34. G. Scott Carlson was the President of HI during the period of time Volpe and HI were negotiating the transaction whereby HI would acquire all outstanding capital stock of SKA.

35. Volpe and G. Scott Carlson were the individuals who primarily negotiated the terms of the various agreements regarding the purchase by HI of all of the outstanding capital stock of SKA from Volpe.

36. G. Scott Carlson had no prior experience in the insurance brokerage industry.

37. Volpe has extensive experience in the insurance brokerage industry.

38. During the negotiations between Volpe and G. Scott Carlson, Volpe was represented by David J. Hopkins, Esquire, as counsel.

39. David J. Hopkins, Esquire, as counsel for Volpe, prepared the First Addendum to the Stock Purchase Agreement and the Second Addendum to the Stock Purchase Agreement. The Second Addendum to the Stock Purchase Agreement was prepared and presented to G. Scott Carlson on the day of closing of the transaction (April 30, 2002).

40. Other individuals and/or entities had Rights of First Refusal to purchase the stock of SKA.

41. Contingencies regarding the Rights of First Refusal for the other persons and/or entities to purchase the stock in SKA were addressed in Paragraph 27 of the Sales Agreement.

42. Volpe and David J. Hopkins, Esquire, as his counsel, were privy to the specific requirements of the Rights of First Refusal on the part of others to purchase the stock of SKA.

43. Volpe did not disclose to Carlson all specifics of the Rights of First Refusal to purchase the stock of SKA.

44. Volpe represented to Carlson that Volpe needed "protection" to prevent the other persons and/or entities from exercising the Rights of First Refusal to purchase the stock of SKA.

45. It is believed and therefore averred that the Second Addendum to the Stock Purchase Agreement, which modified certain provisions of the Employment Agreement, was drafted at the request of Volpe as a subterfuge to thwart the incentive and/or ability of others to exercise their Right of First Refusal to purchase the stock of SKA.

46. It is believed and therefore averred that Volpe failed to read the Employment Agreement prior to signing the Employment Agreement.

47. Where a party fails to read an agreement, courts will not protect him from his own mistake.

48. Volpe is estopped from claiming SKA and/or HI breached the Employment Agreement.

49. Following the closing of the Stock Purchase transaction, Volpe continued to work essentially full-time at SKA.

50. In or about August, 2002, G. Scott Carlson resigned as President of HI and left the active employ of HI.

51. Shortly after G. Scott Carlson left the employ of HI, Volpe stopped working full-time for SKA and was only in the office on a very infrequent basis.

52. Although management of SKA requested Volpe to keep SKA informed of his activities, Volpe failed and refused to inform management of SKA of his activities.

53. Paragraph 1 of the Employment Agreement provides as follows:

“During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation’s request to serve as an officer in/or director of the Corporation at least five (5) hours per week.

54. Between September, 2002, and December, 2002, Volpe failed and refused to work as a salesperson of health related benefits for SKA.

55. In or about December, 2002, Volpe and management of SKA had a meeting to discuss Volpe’s future with SKA in light of his failure to work as a salesperson of health related benefits.

56. As a result of the meeting, Volpe indicated his displeasure with his decision to sell the business, and offered to buy the business back from HI.

57. HI did not accept Mr. Volpe's offer to buy back SKA.

58. In or about January, 2003, management of SKA communicated to Volpe SKA's expectations of Volpe's activities pursuant to the Employment Agreement.

59. Volpe continued his refusal to work as a salesperson of health related benefits, and in or about February, 2003, Volpe commenced a Declaratory Judgment action against SKA in the Court of Common Pleas of Clearfield County to Case No. 03-225, all records of which are incorporated herein by reference.

60. On or about May 17, 2003, trial was held in Case No. 03-225, following which the Honorable President Judge John K. Reilly, Jr., issued an Opinion and Order dated July 9, 2003. A true and correct copy of the Opinion and Order is attached hereto, marked Exhibit H, and incorporated herein.

61. As a result of the Opinion and Order issued by Honorable President Judge John K. Reilly, Jr., in Case No. 03-225, Volpe was required to work as a salesperson of health related benefits for SKA pursuant to the Employment Agreement.

62. Subsequent to Judge Reilly's Order in Case No. 03-225, Volpe began showing up at SKA's office, but refused to work as a salesperson of health related benefits.

63. During most of July, 2003, and August, 2003, when Volpe showed up at the office of SKA, he would read the newspaper, agitate office personnel, create dissention and tension among office personnel, and write down and track what other personnel were doing.

64. During July, 2003, and August, 2003, Volpe made no effort whatsoever to work as a salesperson of health related benefits of SKA.

65. Volpe breached the terms of the Employment Agreement by failing and refusing to work as a salesperson of health related benefits, even after Judge Reilly determined that the Employment Agreement required him to do so.

66. In or about July, 2003, Volpe commenced a second case in the Court of Common Pleas of Clearfield County, to Case No. 03-1188, requesting reformation of the Employment Agreement, and a claim for adverse tax consequences.

67. Volpe has since caused the discontinuation of the case filed to Case No. 03-1188.

68. It is believed and therefore averred that Volpe was dissatisfied with the terms of the Employment Agreement.

69. It is believed and therefore averred that Volpe did not wish to work for SKA as a salesperson of health related benefits.

70. In or about July, 2003, and August, 2003, management of SKA received reports from other personnel of SKA that Volpe was bad mouthing SKA in the community and was sabotaging some of SKA's major insurance accounts.

71. Volpe is guilty of unclean hands.

72. Volpe has filed claims with the U.S. Dept. of Labor regarding his allegations of unfair treatment by SKA in the employment relationship.

73. It is believed and therefore averred that the claims Volpe filed with the U.S. Dept. of Labor have been resolved favorably for SKA and against Volpe.

74. Investigation into Volpe's activities is ongoing and discovery is continuing; therefore, to avoid waiver of any potentially applicable affirmative defenses, the Defendants hereby plead the defenses of accord and satisfaction, prior award, prior determination,

justification, release, payment, res judicata, collateral estoppel, estoppel, setoff, consent, and privilege.

COUNTERCLAIMS – COUNT I

SKA and HI v. VOLPE

75. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

76. As part of the transaction for HI to purchase all of the outstanding capital stock of SKA from Volpe, Volpe was to work for SKA pursuant to the Employment Agreement.

77. The Employment Agreement required Volpe to work as a salesperson of health related benefits for SKA, and to serve as a director or officer of SKA for up to five (5) hours per week at the request of SKA.

78. Part of the reason Volpe was to work for SKA following the transaction was to insure the continued success and profitability of SKA.

79. Volpe failed and refused to work for SKA in accordance with the terms of the Employment Agreement.

80. As a result of Volpe's failure and refusal to work for SKA in accordance with the terms of the Employment Agreement, SKA and HI have been damaged.

81. It is believed and therefore averred that the total damage incurred by SKA and HI as a result of Volpe's failure to fulfill his obligations under the Employment Agreement exceeds \$25,000.

WHEREFORE, SKA and HI demand judgment against Volpe in an amount in excess of \$25,000, and such amount as may be proven at trial.

COUNT II

SKA and HI v. VOLPE

82. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

83. As a result of Volpe badmouthing SKA to existing accounts and otherwise in the community, SKA has lost accounts and lost business.

84. It is believed and therefore averred that Volpe surreptitiously and intentionally communicated false and negative information about SKA to others in the community.

85. Volpe has disparaged SKA and HI, and caused intentional interference with the prospective business advantage of SKA and HI, and negatively affected the return on HI's investment in SKA.

86. Volpe knew, or should have reasonably known, that his making disparaging and false statements and otherwise badmouthing SKA and HI would cause SKA and HI pecuniary loss.

87. It is believed and therefore averred that the loss of business and loss of accounts incurred by SKA as a result of Volpe's badmouthing, disparagement, and intentional interference with the prospective business advantage has resulted in financial damage to SKA and HI in an amount in excess of \$25,000.

WHEREFORE, SKA and HI demand judgment against Volpe in an amount in excess of \$25,000, and such amount as may be proven at trial.

COUNT III

HI v. VOLPE

88. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

89. The Stock Purchase Agreement required that Volpe fully disclose all liabilities of SKA prior to the closing of the transaction.

90. Volpe failed to disclose to HI all liabilities of SKA prior to closing of the transaction.

91. As a result of Volpe's failure to disclose all liabilities of SKA prior to the closing of the transaction, HI has been required to incur expenses and pay amounts that it should not have been required to pay.

92. The Stock Purchase Agreement contains an obligation on Volpe's part to indemnify HI for all undisclosed liabilities.

93. As a result of the expenses incurred by HI resulting from Volpe's failure to disclose all liabilities, HI is entitled to indemnification from Volpe.

WHEREFORE, HI demands judgment against Volpe for indemnification for undisclosed liabilities in an amount in excess of \$25,000, and such amount as may be proven at trial.

COUNT IV

SKA v. VOLPE

94. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

95. While employed by SKA, Volpe used the company Cadillac vehicle for personal reasons, and incurred expenses for personal reasons that he submitted for reimbursement to SKA.

96. It is believed and therefore averred that Volpe intentionally hid the true nature of the expenses from SKA in hopes that SKA would reimburse the expenses to Volpe.

97. It is believed and therefore averred that SKA in fact reimbursed Volpe for illegitimate, non-business related expenses.

98. SKA is due reimbursement from Volpe for all illegitimate expenses claimed by Volpe and mistakenly reimbursed to Volpe by SKA.

WHEREFORE, SKA hereby demands from Volpe a complete accounting of all expenses submitted to SKA for reimbursement by Volpe, and demands judgment against Volpe for all amounts determined to be not properly reimbursable to Volpe.

COUNT V

SKA v. VOLPE

99. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

100. As part of Case No. 03-225, Volpe and SKA agreed that SKA could seek reimbursement for all compensation amounts paid to Volpe during the pendency of the action if it was determined that Volpe should be working more than five hours per week.

101. A true and correct copy of the Order issued by Honorable President John K. Reilly, Jr., regarding the agreement referred to in the above paragraph is attached hereto, marked Exhibit I, and incorporated herein.

102. It has been determined by Judge Reilly that Volpe was supposed to be working more than five (5) hours per week for SKA.

103. SKA paid Volpe a significant amount of money, in excess of \$10,000, during the pendency of Case No. 03-225.

104. SKA hereby demands return of the compensation paid to Volpe during the pendency of Case No. 03-225.

WHEREFORE, SKA demands judgment against Volpe in such amount and along with such other and further relief as the Honorable Court may deem appropriate at trial.

COUNT VI

SKA v. VOLPE

105. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

106. As part of the negotiated employment separation agreement between Volpe and SKA, Volpe was to take title to a Honda automobile.

107. As a result of Volpe's negligence in maintaining records, the title to the Honda automobile could not be located.

108. SKA applied for and obtained a replacement duplicate title for the Honda automobile and immediately undertook all steps necessary for the Honda automobile to be transferred to Volpe.

109. It is believed and therefore averred that Volpe has deliberately delayed transferring title to the Honda automobile because as long as the title remains in the name of SKA, SKA, to protect its interest, must maintain insurance on the Honda automobile.

110. The negligence of Volpe in maintaining records and the intentional delay by Volpe in transferring title to the Honda automobile has caused SKA to incur additional expense in carrying the Honda automobile on its insurance policy.

WHEREFORE, SKA demands judgment against Volpe in such amounts as may be proven at trial for the additional expense incurred by SKA in carrying the Honda automobile on SKA's insurance policy.

COUNT VII

SKA v. VOLPE

111. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

112. While Volpe was supposed to be working for SKA pursuant to the Employment Agreement, SKA provided Volpe use of a Cadillac automobile.

113. Volpe failed and refused to work for SKA from and after August, 2002, and yet kept all compensation and use of the Cadillac automobile, and all other benefits.

114. It is believed and therefore averred that Volpe is not entitled to retain any of the compensation paid to Volpe by SKA from and after August, 2002.

115. Volpe would be unjustly enriched if he was allowed to retain the compensation and benefits paid to him by SKA from and after August, 2002.

116. SKA is entitled to be reimbursed by Volpe for all amounts paid for the Cadillac automobile from and after August, 2002, until Volpe returned the automobile to SKA.

WHEREFORE, SKA demands judgment against Volpe in such amounts as may be proven at trial for the amount Volpe has been unjustly enriched since August, 2002.

COUNT VIII

SKA and HI v. VOLPE

117. The responses and averments of the foregoing paragraphs are incorporated herein as if set forth at length.

118. As a party to an employment contract, Volpe had a duty via the doctrine of necessary implication to perform in good faith and deal fairly with SKA and HI.

119. On numerous occasions, Volpe badmouthed and disparaged SKA and HI to existing accounts and to the community in general.

120. Said conduct by Volpe constituted bad faith and unfair dealing.

121. Volpe's acting in bad faith and dealing unfairly with SKA and HI in the performance of his duties and obligations under the employment agreement constitutes a breach of said agreement.

WHEREFORE, SKA and HI demand judgment against Volpe for breach of contract resulting from Volpe's bad faith and unfair dealing in an amount in excess of \$25,000, and such amount as may be proven at trial.

Respectfully submitted:

2/26/04
Date



Rodney A. Beard, Esquire
Attorney for Defendants
Sup. Ct. I.D. No. 49909
2766 West College Avenue, Suite 100
State College, PA 16801
(814) 237-3101

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

VERIFICATION

I hereby verify that the facts set forth in this Answer, New Matter and Counterclaims are true and correct to the best of my knowledge, information and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 2/26/04


Rodney Mdline

EXHIBIT A

STOCK PURCHASE AGREEMENT

THIS AGREEMENT, is made as of the 26th day of March, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, constituting the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

WITNESSETH:

WHEREAS, the Company is engaged in the business of insurance brokerage (the "Business"); and

WHEREAS, Seller is the owner of One Hundred (100) shares of common stock, no par value, of the Company, constituting all of the issued and outstanding shares of capital stock of the Company (hereinafter referred to as the "Shares"); and

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Shares on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

Section 1. Sale and Purchase of Shares

1.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, on the Closing Date (as hereinafter defined), Seller will sell, transfer, convey and assign to Buyer, and Buyer will purchase from Seller, all of the issued and outstanding shares of capital stock of the Company on the Closing Date, all of which are, and on the Closing Date will be, free and clear of any and all liens, claims, charges, pledges, security interests or other encumbrances of any nature whatsoever ("Liens").

P # 1

Section 2. Closing; Closing Date.

2.1. The Closing hereunder (the "Closing") shall take place at 10:00 a.m. at the Hopkins Law Firm on May 1, 2002, or as soon as practicable thereafter after Seller's "Rights of First Refusals" have ended or on such other date as the parties may mutually agree (the "Closing Date"). The parties agree that the Seller's "Rights of First Refusals" must be removed or ended no later than ninety (90) days after execution of this Agreement. If the "Rights of First Refusals" have not been removed or waived within ninety (90) days, Buyer or Seller may terminate this Agreement. At the Closing, Seller shall deliver to Buyer certificates representing the Shares, each certificate to be duly endorsed in blank or with stock powers annexed thereto duly executed in blank, in proper form for transfer of the Shares to Buyer upon delivery.

Section 3. Purchase Price.

3.1. The purchase price for the Shares shall be One Million Six Hundred Eighty Thousand Dollars (\$1,680,000.00). The Purchase Price shall be payable as follows: One Million Two Hundred Thousand Dollars (\$1,200,000.00) payable by certified or official bank checks or by a wire transfer in such manner (and in the case of a wire transfer, to a single bank account) as Seller shall designate to Buyer and a Promissory Note in the amount of Four Hundred Eighty Thousand Dollars (\$480,000.00) executed by Buyer and duly delivered at Closing, which Promissory Note shall be substantially in the same form as attached hereto as Exhibit A. The purchase price shall be allocated One Million Five Hundred Eighty Thousand Dollars (\$1,580,000.00) towards the purchase of the Company's capital shares and One Hundred Thousand Dollars (\$100,000.00) towards the noncompetition agreements set forth in Section 4.

3.2. In addition to the purchase price, Seller shall be entitled to receive premiums earned but not yet paid to the Closing Date.

3.3. As security for the unpaid balance, the Buyer does hereby pledge and hypothecate all of the corporate stock of the Company to the Seller. Upon payment of the Promissory Note, Seller shall return the corporate stock of the Company to Buyer.

Section 4. Trade Secrets; Noncompetition.

4.1. Confidentially. Seller shall not at any time hereafter use for his own benefit, or divulge to any other person, firm or corporation, any confidential information or trade secrets which the Company, may have imparted to him, and upon the consummation of the transactions contemplated hereby, he will deliver to the Company all lists of customers, books, records and all other property constituting confidential information belonging to the Company; provided, however, that the restrictions of this Section 4.1 shall not extend to any confidential information which, at the time such information was disclosed by Seller was in the public domain or thereafter entered the public domain other than through disclosure by Seller or was or becomes readily ascertainable from public sources. If at any time Seller is requested or required (by oral questions, interrogatories,

requests for information or documents, subpoenas or similar legal process) to disclose any such information, he (to the extent reasonably practical) shall notify Buyer immediately and shall refrain from making such disclosure so that Buyer may, at its own expense, seek an appropriate protective order and/or waive compliance with the provisions hereof. If, in the absence of a protective order or the receipt of a waiver hereunder, in the reasonable opinion of the Seller's counsel, he is compelled to disclose such information to any tribunal or any governmental agency to avoid being liable for contempt or suffering any other penalty, Seller may disclose such information to such tribunal or agency without liability hereunder; provided, however, that he gives Buyer prompt notice of such decision. Seller shall use his best efforts to prevent the respective directors and officers of such entities from violating the provisions of this Section 4.1. For the purposes hereof, the term "confidential information" means information of or related to the customer and marketing relationships of the Business, and business and financial information of the Business.

4.2. Non-Competition. No Seller shall, for a period of five (5) years following the Closing Date, in any manner directly or indirectly, engage in any business which competes with the activities in which the Company is presently engaged and no Seller will directly or indirectly own, manage, operate, join, control or participate in the ownership, management, operation or control of, or be employed by, or connected in any manner with, any person, corporation, firm or business that is so engaged; provided, however, that nothing herein contained shall prohibit any Seller from owning not more than 5% of the outstanding stock of any publicly held corporation.

4.3. Non-Solicitation. No Seller shall, at any time during the period of five (5) years following the Closing Date, solicit, employ or retain, or otherwise participate in the employment or retention of, in any capacity, any employee or consultant (where, if such consultant were so employed or retained, Buyer or the Company would be put at a competitive disadvantage) currently paid by, retained, or under agreement with the Company.

4.4. Specific Performance. Seller acknowledge that a violation of the foregoing covenants of this Section 4 may cause irreparable injury to the Company and Buyer and that the Company and Buyer will be entitled, in addition to any other rights and remedies they may have, to injunctive relief from any court of competent jurisdiction without the need of posting any bond or other security.

4.5. Saving Clause. In the event the covenants contained in this Section 4 should be held by any court or other constituted legal authority to be void or otherwise unenforceable in any particular jurisdiction or with respect to any particular activity, then Seller and Buyer shall consider this Section 4 to be amended and modified so as to eliminate therefrom that particular jurisdiction or activity as to which such covenants are so held to be void or otherwise unenforceable, and, as to all other jurisdictions and activities covered hereby, the terms and provisions hereof shall remain in full force and effect. Seller acknowledge that the amount to be paid to Seller by Buyer for the covenants set forth in this Section 4

on the Closing Date pursuant to the terms of Section 3 hereof is fair and reasonable and constitutes good and valid consideration for such covenants.

Section 5. Representations and Warranties of Seller.

Seller represents and warrants to Buyer as follows:

5.1. Organization. The Company is a corporation duly organized, validly existing and in good standing under the laws of Pennsylvania and has all requisite corporate power and authority and all necessary licenses and permits to carry on the Business as it has been and is now being conducted. The Company is duly qualified or licensed and in good standing to conduct the Business in the Commonwealth of Pennsylvania and in any other jurisdictions in which it conducts any portion of the Business.

5.2. Capitalization. The total authorized shares of the Company consists of Ten Thousand (10,000) shares of common stock, no par value, of which only One Hundred (100) Shares are issued and outstanding. All of the Shares have been duly and validly authorized and issued and are fully paid, nonassessable and free of preemptive rights with no liability attaching to the ownership thereof.

5.3. Options. There are no existing agreements, subscriptions, options, warrants, calls, commitments, trusts (voting or otherwise), or rights of any kind whatsoever.

5.4. Title to the Shares. Seller is the lawful record holder of and the beneficial owner of all of the issued shares, and Seller has good and marketable title to all of the issued shares. The Shares are owned by Seller free and clear of any and all Liens, and there are no existing agreements, subscriptions, options, warrants, calls, commitments, trusts (voting or otherwise), or rights of any kind whatsoever granting to any person or entity any interest in or the right to purchase or otherwise acquire any of the Shares from any Seller at any time, or upon the happening of any stated event except that Swift Kennedy Financial Company, Inc. and Matthew T. Ruttinger possess a right of first refusal to purchase Company.

5.4.1. Power and Capacity. Seller has full right, power and capacity to execute, deliver and perform this Agreement, to sell, transfer and deliver the Shares owned by Seller to Buyer hereunder and to perform all other transactions contemplated to be performed by Seller hereunder. This Agreement is a valid and binding obligation of Seller enforceable in accordance with its terms.

5.5. Freedom to Contract. The execution and delivery of this Agreement by Seller does not, and the performance by Seller of Seller's obligations hereunder will not, (a) violate or conflict with any provision applicable to the Shares or Articles of Incorporation or Bylaws of the Company, (b) violate any of the terms, conditions or provisions of any law, rule, regulation, order, writ, injunction, judgment or decree of any court, governmental authority, or regulatory agency, or (c) result in a violation or breach of, or constitute (with or without the giving of notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration) under, any of the terms,

conditions or provisions of any note, bond, indenture, debenture, security agreement, trust agreement, lien, mortgage, lease, agreement, license, franchise, permit, guaranty, joint venture agreement, brokerage or agency contract, or other agreement, instrument or obligation, oral or written, to which Seller or the Company is a party (whether as an original party or as an assignee or successor).

5.6. Charter and Organizational Documents. Seller has previously furnished Buyer with true and complete copies of the Certificates or Articles of Incorporation and Bylaws of the Company, as amended and currently in effect.

5.7. Financial Statements.

5.7.1. Buyer's and Company's accountants have met and disclosed such information to Buyer's satisfaction.

5.7.2. The Company's tax returns have been prepared pursuant to the tax basis of accounting applied on a basis consistent with that of preceding accounting period.

5.8. Absence of Undisclosed Liabilities. Except as disclosed on Exhibit B, the Company has no liabilities or obligations (whether absolute, accrued, contingent or otherwise). In the event any liability arises after the Closing of the transaction contemplated in this Agreement which was not disclosed on Exhibit B, which liability the Company and/or the Buyer becomes obligated to satisfy, the Buyer shall be entitled to offset from any amounts due the Seller the amount of such obligation actually paid by the Buyer and/or the Company. The right of offset shall apply to amounts due and payable for the Shares, as well as amounts due and payable for normal ongoing salary and/or commission payments to the Seller provided Buyer shall immediately notify Seller of said undisclosed liabilities within ten days of learning of said liabilities. Buyer's failure to notify Seller within ten days of learning of said liabilities shall bar Buyer Buyer's right to recover from Seller for undisclosed liabilities.

5.9. Machinery and Equipment. Exhibit C is a correct and complete list of each material item of equipment owned by the Company. All items listed on Exhibit C are in good operating condition and repair, subject to normal wear and use, and are usable in the ordinary course of business conducted by the Company.

5.10. Contracts. Exhibit D lists each and every contract to which the Company is a party, other than contracts and commitments listed in some other Exhibit hereto;

5.11. Absence of Default. Company has complied with and performed all of its respective obligations required to be performed under all material contracts, agreements and leases to which it is a party (whether as an original party or as an assignee or successor) as of the date hereof, and are not in default in any material respect under any contract, agreement, lease, undertaking, commitment or other obligation; and no event has occurred which, with or without the giving of notice, lapse of time or both, would constitute a default thereunder in any material respect. Seller, after due inquiry of the

Company, has no knowledge that any party has failed to comply with or perform any of its obligations required to be performed under any material contract, agreement or lease to which the Company (whether as an original party or as an assignee or successor) as of the date hereof, that any event has occurred which, with or without the giving of notice, lapse of time or both, would constitute a default by such party thereunder. In addition, Seller, after due inquiry of the Company, has no knowledge of any facts or circumstances which make a default to any material contract or obligation likely to occur subsequent to the date hereof.

5.12. Insurance. The Company maintains insurance coverage on its respective motor vehicles with respect to their employees and operations, covering risks that are prudently insured against by similar businesses.

5.13. Litigation. There are no actions, suits, labor disputes or arbitrations, legal or administrative proceedings or investigations pending against the Company, and to the best knowledge of Seller, after due inquiry of the Company, no actions, suits, material labor disputes or arbitrations, legal or administrative proceedings or investigations are contemplated or threatened against the Company. Company nor the assets, properties or business of Company, is subject to any judgment, order, writ, injunction or decree of any court, governmental agency or arbitration tribunal.

5.14. Tax Matters.

5.14.1. The Company has filed or will file all required Federal state, county, local, foreign and other tax returns and reports including without limitation income tax, estimated tax, whether or not measured in whole or in part by net income, within the prescribed period or any extension thereof for all periods prior to the Closing Date.

5.14.2. Neither the Seller nor the Company is a party to any pending action by any governmental authority for assessment or collection of taxes, or party to any dispute or threatened dispute in which an adverse determination would have a material adverse effect on the Business, operations, properties, or financial condition of the Company and no claim for assessment or collection of taxes has been made upon the Company nor is there any basis for such action or claim.

5.15. Employee Retirement Income Security Act (ERISA). Company maintains a "Defined Benefit Plan" within the meaning of the Code or ERISA. Company will, at Seller's request, terminate the plan and the plan assets shall be the property of Seller. Neither Company nor Buyer shall have any rights to the assets of the plan. Buyer and the Company shall follow the directions of Seller in regard to the termination of the plan. Seller shall be liable for any income tax liability as a result of the termination of the plan unless caused by Buyer or Company's negligence and agrees to fully indemnify Company and Buyer from any and all claims, demands, judgments, taxes, penalties, and any other expenses of whatever nature (including reasonable attorney's, accountant's, and actuary's fees) resulting from termination of the Plan. Seller represents that Seller is the

only participant in the plan and Seller is the only person entitled to any benefit from the plan.

5.16. Full Disclosure. No representation or warranty by Seller in this Agreement, any Exhibit or Schedule hereto contains any untrue statement of a material fact or omits to state any material fact necessary to make any statement herein or therein, in the light of the circumstances under which it was made, not misleading. Except as described in the Exhibits or Schedules hereto or to be delivered, all documents and agreements described in such Exhibits or Schedules are valid and effective in accordance with their respective terms.

5.17. 2002 Taxes. For tax year 2002, Company, Buyer and Seller shall elect to use the "specific accounting election" (also known as the "election to use normal accounting rules" and the "election to treat the tax year as if it consisted of two (2) tax years") as set forth in the Internal Revenue Code of 1986, as amended, Section 1377(a)(2). The Company shall not issue a K-1 to Seller that exceeds the profits of the Company as of the Closing Date.

Section 6. Representations and Warranties of Buyer.

Buyer represents and warrants to Seller as follows:

6.1. Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby to be performed by it.

6.2. Authorization. The execution and delivery by Buyer of this Agreement, and the performance by it of its obligations hereunder, have been duly authorized by all necessary corporate actions of Buyer.

6.3. Freedom to Contract. The execution and delivery of this Agreement by Buyer does not, and the performance by it of its obligation hereunder will not, (a) violate or conflict with any provision of the certificate of incorporation or bylaws of the Buyer or any amendments thereto or restatements thereof, (b) violate any of the terms, conditions or provisions of any law, rule, regulation, order, writ, injunction, judgment or decree of any court, governmental authority, or regulatory agency, or (c) result in a violation or breach of, or constitute (with or without the giving of notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration) under, any of the terms, conditions or provisions of any note, bond, indenture, debenture, security agreement, trust agreement, lien, mortgage, lease, agreement, license, franchise, permit, guaranty, joint venture agreement, or other agreement, instrument or obligation, oral or written, to which Buyer is a party (whether as an original party or as an assignee or successor) or by which it or any of its properties is bound. Buyer knows of no governmental department, commission, authority, board, bureau, agency or other instrumentality, which is required to give approval in connection with Buyer's execution,

delivery and performance of this agreement and the consummation of the transactions required hereby.

6.4. Litigation.

6.4.1. Buyer is not a party to any suit, action, arbitration or legal, administrative, governmental or other proceeding or investigation pending or, to the best knowledge of Buyer threatened, which might adversely affect or restrict the ability of Buyer to consummate the transactions contemplated by this Agreement or to perform its obligations hereunder.

6.4.2. There is no judgment, order, injunction or decree of any court, governmental authority or regulatory agency to which Buyer is subject which might adversely affect or restrict the ability of Buyer to consummate the transactions contemplated by this Agreement or to perform its obligations hereunder.

6.5. Investment. The acquisition of the Shares by Buyer is being made for investment by Buyer and not with a view towards resale in connection with any distribution thereof.

6.6. Financial Resources. Buyer possesses the financial resources to complete the transaction contemplated herein.

Section 7. Covenants of Seller.

Seller, jointly and severally, hereby covenant and agree with Buyer as follows:

7.1. Conduct of Business Pending Closing. From the date hereof until the Closing Date, Seller will cause the Company to:

7.1.1. maintain its existence in good standing;

7.1.2. maintain the general character of its business and conduct its business in the ordinary and usual manner;

7.1.3. maintain proper business and accounting records;

7.1.4. maintain its properties in good repair and condition; and

7.1.5. use its best efforts to preserve its business intact, to keep available to the Company the services of their present officers and employees and to preserve for the Company the goodwill of their policyholders, subscribers, customers and others having business relations with the Company.

7.2. Prohibited Actions Pending Closing. Unless otherwise provided for herein or approved by Buyer in writing, from the date hereof until the Closing Date, Seller shall cause each of the Company not to:

- 7.2.1. Amend or otherwise change its respective Certificates or Articles of Incorporation, Bylaws or other governing documents.
- 7.2.2. Issue or sell, or authorize for issuance or sale, or grant any options or make other agreements with respect to, any shares of its capital stock or any other of its securities.
- 7.2.3. Authorize or incur any additional debt for money borrowed, or incur any additional debt other than normal trade debt and other than the lease of a motor vehicle for Seller's business use.
- 7.2.4. Mortgage, pledge or subject to lien or other encumbrance any of its properties or agree to do so.
- 7.2.5. Enter into or agree to enter into any material agreement, contract or commitment other than sales agreements entered into in the ordinary course of business.
- 7.2.6. Declare, set aside, make or pay any dividend or other distribution to Seller, or redeem, purchase or otherwise acquire, directly or indirectly, any of their capital stock, or authorize or effect any split-up or any recapitalization or make any changes in its authorized or issued capital stock; provided, however, that the Company may distribute all of the cash or other liquid marketable assets of the Company to Seller provided sufficient cash is available at closing to meet the Company's obligations set forth in Section 7.2.7.
- 7.2.7. As of the Closing Date, the Company shall have sufficient cash to pay the commissions due agents inside and outside of the Swift Kennedy Group and pay premiums due Blue Cross for "administered plans" up to the Closing Date.
- 7.2.8. Increase or agree to increase the compensation of any of its officers or directors, except that the Company may distribute all of the cash or other liquid marketable assets of the Company to Seller provided sufficient cash is available at closing to meet the Company's obligations set forth in Section 7.2.7.
- 7.2.9. Establish or adopt any Plan; modify, amend, restate, terminate or revise any Plan; take any action to deplete any asset of any Plan; or distribute any communication to any employee relating to a Plan except that Seller may terminate the Company's "Defined Benefit Pension Plan".
- 7.2.10. Sell or otherwise dispose of, or agree to sell or dispose of any of its assets or properties, except in the ordinary course of business. Company may trade the motor vehicle Seller drives.
- 7.2.11. Amend or terminate any lease, contract, undertaking or other commitment listed in any of the Exhibits or Schedules to this Agreement to which it is a party, or to take action or fail to take any action, which would result in an event of default thereunder.

7.2.12. Assume, guarantee or otherwise become responsible for the obligations of any other party or agree to so do.

7.2.13. Invest any assets of the Company which are to be sold and transferred to Buyer, except the reinvestment of cash or cash equivalents in U.S. Treasury Bills and/or certificates of deposit.

7.2.14. Take any action prior to the Closing Date which would breach any of the representations and warranties contained in this Agreement.

7.3. Access. From and after the date hereof until the Closing, Seller shall cause the Company to afford and, with respect to clause (b) below, shall cause the independent certified public accountants for the Company to afford, (a) to the officers, independent certified public accountants, counsel and other representatives of Buyer free and full access at all reasonable times to the properties, books and records (including tax returns filed and those in preparation) of the Company and the right to consult with the officers, employees, accountants, counsel and other representatives of the Company in order that Buyer may have full opportunity to make such investigations as it shall reasonably desire to make of the affairs of the Company, including without limitation, the taking by independent certified public accountants of Buyer of a physical inventory of the Company, (b) to the independent certified public accountants of Buyer free and full access at all reasonable times to the work papers and other records of the accountants who have prepared financial statements relating to the Company and (c) to Buyer and its representatives such additional financial and operating data and other information as to the business and properties of the Company, as Buyer shall from time to time reasonably require; provided, however, that any such investigation shall not affect or otherwise diminish or obviate in any way any of the representations and warranties of Seller hereunder.

7.4. Attorney-in-Fact. Each Seller hereby irrevocably appoints David J. Hopkins, Esquire as such Seller's attorney-in-fact and representative (the "Attorney-in-Fact"), such appointment to be coupled with an interest and not to terminate in the event of the death or incapacity of such Seller, to do any and all things and to execute any and all documents or other papers, in such Seller's name, place and stead, in any way which such Seller could do if personally present, in connection with this Agreement and the transactions contemplated thereby, including, without limitation, to act on behalf of all Seller in connection with matters arising under this Agreement. Buyer shall be entitled to rely, as being binding upon each Seller, upon any document or other paper believed by it to be genuine and correct and to have been signed or sent by the Attorney-in-Fact, and Buyer shall not be liable to any Seller for any action taken or omitted to be taken by it in such reliance.

Section 8. Conditions Precedent to Buyer's Obligations.

8.1. All obligations of Buyer under this Agreement are subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Buyer):

8.2. Representations and Warranties True as of Closing Date. Seller's representations and warranties contained in this Agreement and Schedules hereto shall be true on and as of the date hereof and shall be true on and as of the Closing Date with the same effect as though such representations and warranties were made on and as of the Closing Date, except for changes in the ordinary course of business which, individually or in the aggregate, do not result in a material adverse change to the Company.

8.3. Compliance with this Agreement. Seller shall have performed and complied with all agreements and conditions contained in this Agreement that are required to be performed or complied with by them prior to or at the Closing.

8.4. No Damage to Business. The properties or business of the Company shall not have been and shall not be threatened to be adversely affected as a result of fire, explosion, earthquake, disaster, accident, flood, drought, embargo, riot, civil disturbance, uprising, activity of armed forces or act of God or public enemy. There shall not be pending or threatened any strike or any action by any governmental authority which would have a material adverse effect on the properties or Business of the Company.

8.5. No Restraint. No suit, action, proceeding, or investigation shall have been instituted or threatened by any governmental agency, and no injunction shall have been issued and then outstanding, to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated by this Agreement.

8.6. Notifications and Consents. Seller shall have timely given notice required to be given by them to any third party in connection with the consummation of the transactions contemplated hereby, including, without limitation, required notices to the holders of any indebtedness of the Company, the lessors of any real or personal property leased by the Company, Swift Kennedy Financial, Inc. and Matthew T. Ruttinger.

8.7. Resignations. Seller shall have delivered to Buyer the written resignation of each director of the Company.

Section 9. Conditions Precedent to Seller's Obligations.

All obligations of Seller under this Agreement are subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Seller):

9.1. Compliance with this Agreement. Buyer shall have performed and complied with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing.

9.2. Secretary's Certificate. Seller shall have been furnished with a certificate dated the Closing Date and signed by the Secretary or an Assistant Secretary of Buyer, setting forth (i) the names, signatures and positions of the officers of Buyer who have executed this Agreement or any other document executed by Buyer and delivered to Seller as a Closing document hereunder, and (ii) a copy of the resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement.

9.3. No Restraint. No suit, action, proceeding or investigation shall have been instituted or threatened by any governmental agency, and no injunction shall have been issued and then be outstanding to restrain, prohibit or otherwise challenge the legality or validity of any of the transactions contemplated by this Agreement.

Section 10. Cooperation.

10.1. All parties hereto shall use their best efforts (i) to respond promptly to any requests for additional information made by any governmental agencies (keeping the other parties informed of such requests) and (ii) to resist vigorously at their respective cost and expense any assertion that the transactions provided herein constitute a violation of any law, rule or regulation, all to the end of expediting the Closing.

10.2. Further Assurances. From and after the Closing, Seller, and Buyer, agree to execute and deliver such further documents and instruments and to do such other acts and things as Buyer or Seller, as the case may be, may reasonably request in order to effectuate the transactions contemplated by this Agreement. In the event any party shall be involved in litigation, threatened litigation or government inquiries with respect to a matter involving the Company, the other party shall also make available to such first party, at reasonable times and subject to the reasonable requirements of its or his own business, such of its or his personnel as may have information relevant to the matters provided such first party shall reimburse the providing party for its or his reasonable costs for employee time incurred in connection therewith if more than one business day is required. Following the Closing, the parties will cooperate with each other in connection with tax audits and in the defense of any legal proceedings, consistent with the other provisions for defense of claims provided in this Agreement to the extent such cooperation does not cause unreasonable expense, unless such expense is borne by the requesting party.

Section 11. Indemnification.

11.1. Indemnification by Seller. For a period of five (5) years after the Closing Date, Seller shall jointly and severally indemnify Buyer and hold Buyer harmless at all times from and after the Closing Date against and in respect of:

11.1.1. Any and all damages, losses, liabilities, taxes and deficiencies and penalties and interest thereon and costs and expenses resulting from any misrepresentation, breach of warranty and/or nonfulfillment of any covenant or agreement on the part of Seller under this Agreement. Seller's obligation for nonfulfillment of any obligation or agreement on the part of Seller under this Agreement shall end on the Closing Date.

11.1.2. Any claims or litigation relating to the company now pending or threatened or which may hereafter be brought against Buyer based upon events occurring prior to the Closing Date and not attributable to the acts of Buyer.

11.2. Indemnification by Buyer. Buyer shall indemnify Seller and hold Seller harmless at all times from and after the Closing Date against and in respect of:

11.2.1. Any and all damages, losses, liabilities, taxes and deficiencies, penalties and interest thereon and costs and expenses resulting from any misrepresentation, breach of warranty, and/or nonfulfillment of any covenant or agreement on the part of the Buyer.

11.2.2 Any claims or litigation relating to the company which may hereafter be brought against Buyer based upon events occurring subsequent to the Closing Date and not attributable to the acts of Seller.

11.3. Period of Indemnity. The aforesaid indemnities of Buyer and Seller shall remain in full force and effect: (a) as they relate to a third-party claim against any of Buyer, Seller, the Company, for a period equal to the applicable statute of limitation for such claim; and (b) as they relate to breaches of representations, warranties or covenants made by Seller and Buyer, for the period provided in this Agreement; provided, however, if at the expiration of the appropriate period any claim or assessment for indemnification has been asserted but not fully determined, or any audit or other proceeding with respect to any tax matter has been initiated, such period will be extended as to such claim, assessment, audit or other proceeding until it is finally determined or concluded.

11.4. Notice to the Indemnitor. Immediately after the assertion of any claim by a third party or occurrence of any event which may give rise to a claim for indemnification from an indemnitor (the "Indemnitor") under this Section, the party seeking indemnification (the "Indemnified Party") shall notify the Indemnitor in writing of such claim and, with respect to claims by third parties, advise the Indemnitor whether the Indemnified Party intends to contest same.

11.5. Rights of Parties to Settle or Defend. If the Indemnified Party determines not to contest such claim, the Indemnitor shall have the right, at its own expense, to contest and defend against such claim. If the Indemnified Party determines to contest such claim, the Indemnitor shall have the right to be represented, at its own expense by its own counsel and accountants (their participation to be subject to the reasonable direction of the Indemnified Party). In either case, the Indemnified Party shall make available to the Indemnitor and its attorneys and accountants, at all reasonable times during normal business hours, all books, records, and other documents in its possession relating to such

claim. The party contesting any such claim shall be furnished all reasonable assistance in connection therewith by the other party. If the Indemnitor fails to undertake the defense of or settle or pay any such third-party claim within ten (10) days after the Indemnified Party has given written notice to the Indemnitor advising that the Indemnified Party does not intend to contest such claim, or the Indemnitor, after having given such notification to the Indemnified Party, fails forthwith to defend, settle or pay such claim, then the Indemnified Party may take any and all necessary action to dispose of such claim including, without limitation, the settlement or full payment thereof upon such terms as it shall deem appropriate, in its sole discretion, subject to the following with respect to any proposed settlement thereof.

11.6. Settlement Proposals. In the event the Indemnified Party desires to settle any such third-party claim (whether or not contested by the Indemnitor), the Indemnified Party shall advise the Indemnitor of the amount it proposes to pay in settlement thereof (the "Proposed Settlement"). If such Proposed Settlement is unsatisfactory to the Indemnitor, it shall have the right, at its expense, to contest such claim by giving written notice of such election to the Indemnified Party within ten (10) days after the Indemnitor has been advised of the Proposed Settlement. If the Indemnitor does not deliver such written notice within ten (10) days after the Indemnitor has been advised of the Proposed Settlement, the Indemnified Party may offer the Proposed Settlement to the third party making such claim. If the Proposed Settlement is not accepted by the party making such claim, any new Proposed Settlement figure which the Indemnified Party may wish to present to the party making such claim shall first be presented to the Indemnitor who shall have the right, subject to the conditions hereinabove set forth in this Section, to contest such claim. In all such events, the Indemnitor shall indemnify the Indemnified Party and hold it harmless against and from any and all costs of defense, payment or settlement, including reasonable attorneys' fees incurred in connection therewith.

11.7. Reimbursement. At the time that the Indemnified Party shall suffer a loss because of a breach of any warranty, representation or covenant by the Indemnitor or at the time the amount of any liability on the part of the Indemnitor under this Section is determined (which in the case of payments to third persons shall be the earlier of (a) the date of such payments or (b) the date that a court of competent jurisdiction shall enter a final judgment, order or decree (after exhaustion of appeal rights establishing such liability), the Indemnitor shall forthwith, upon notice from the Indemnified Party, pay to the Indemnified Party, the amount of the indemnity claim. If such amount is not paid forthwith, then the Indemnified Party may, at its option, take legal action against the Indemnitor for reimbursement in the amount of its indemnity claim. For purposes hereof the indemnity claim shall include the amounts so paid (or determined to be owing) by the Indemnified Party together with costs and reasonable attorneys' fees and interest on the foregoing items at the rate of six percent (6.0%) per annum from the date the obligation is due from the Indemnified Party to the Indemnitor, as hereinabove provided, until the indemnity claim shall be paid.

11.8. Limitation on Indemnity. Anything herein to the contrary notwithstanding, an Indemnitor shall be required to indemnify and hold harmless an indemnified party under

this Section 11 only to the extent that the aggregate amount of the Indemnified Party's claims hereunder exceeds the sum of Five Thousand (\$5,000.00) Dollars.

11.9. No Effect on Right of Offset. Nothing in this Section shall adversely affect Buyer's right to offset any future payments due Seller as otherwise provided for in this Agreement provided Buyer has complied with the applicable notice provisions and Buyer has suffered an actual monetary loss.

Section 12. Survival of Representations and Warranties. All representations, warranties, covenants and agreements made by each party in this Agreement, in any Exhibit or Schedule hereto, or in any list, certificate, document or written statement furnished or delivered by any such party pursuant hereto shall survive the Closing, and shall remain in full force and effect, notwithstanding any investigation conducted before or after the Closing or the decision of any party to complete the Closing, for a period of one (1) year following the Closing Date; provided, however, that (a) all representations and warranties made by Seller with respect to tax matters shall survive until the relevant statute of limitations with respect to each such item has run and (b) if at the expiration of the appropriate period any claim or assessment for indemnification has been asserted but not fully determined, or any audit or other proceeding with respect to any tax matter has been initiated, such period will be extended as to such claim, assessment, audit or other proceeding until it is finally determined or concluded, and each party hereto shall be entitled to rely upon the representations and warranties of the other party set forth in this Agreement.

Section 13. Brokers' and Finders' Fees.

13.1. Seller. Seller represents and warrants to Buyer that all negotiations relative to this Agreement have been carried on by it directly without the intervention of any person or entity who or which may be entitled to a brokerage fee or other commission in respect of the execution of this Agreement or the consummation of the transactions contemplated hereby. Seller agree to indemnify and hold Buyer harmless against any and all claims, losses, liabilities or expenses which may be asserted against it as a result of Seller' or any of their affiliates' dealings, arrangements or agreements with any person or firm claiming to be a broker or finder.

13.2. Buyer. Buyer represents and warrants to Seller that all negotiations relative to this Agreement have been carried on by it directly without the intervention of any person or entity who or which may be entitled to any brokerage fee or commission in respect of the execution of this Agreement or the consummation of the transactions contemplated hereby, and Buyer agrees to indemnify and hold Seller harmless against any and all claims, losses, liabilities or expenses which may be asserted against them as a result of Buyer's or any of its affiliates' dealings, arrangements or agreements with any such other person or entity claiming to be a broker or finder.

Section 14. Additional Covenants.

14.1. Expenses. Each party hereto shall pay its own expenses incidental to the preparation of this Agreement, the carrying out of the provisions of this Agreement and the consummation of the transactions contemplated hereby.

14.2. Press Releases. Neither Buyer nor Seller shall issue any press release nor otherwise make public any information with respect to this Agreement or the transactions contemplated thereby, prior to the Closing Date, without the express written consent of the other.

14.3. Allocation of Purchase Price. Buyer and Seller acknowledge that the allocation of the purchase price between the Shares and the covenants contained in Section 4 hereof was bargained for and negotiated. Buyer and Seller agree to report the transaction for Federal, state and local income tax purposes in a manner consistent with such allocation and in accordance with all applicable regulations, including, without limitation, Section 1060 of the Code. Seller acknowledge that they will report the receipt of amounts paid pursuant to the covenants contained in Section 4 hereof as ordinary income for all Federal, state and local income tax purposes.

Section 15. Contents of Agreement; Parties in Interest. This Agreement and the agreements referred to herein set forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended except by a written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

Section 16. Assignment and Binding Effect. This Agreement may not be assigned by either party hereto without the prior written consent of the other party; provided, however, Buyer may assign this Agreement to any of its subsidiaries or affiliates, without Seller' consent, as long as, in such event, Buyer shall remain liable for its obligations hereunder. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, personal representatives, successors and assigns of the parties hereto.

Section 17. Waiver. Any term or provision of this Agreement may be waived at any time by the party entitled to the benefit thereof by a written instrument duly executed by such party.

Section 18. Termination.

This Agreement may be terminated as follows:

18.1. Mutual Consent. By the board of directors of Buyer and by Seller mutually agreeing to terminate this Agreement; or

18.2. Exercise of Right of First Refusal. Swift Kennedy Financial Company, Inc or Matthew T. Ruttinger exercise their right of first refusal to purchase the company. Seller shall present the relevant terms of this Agreement to Swift Kennedy Financial Company, Inc. within five business (5) days of receipt of a fully executed copy of this Agreement.

18.3. In the event of the termination by either party as provided above, written notice of termination will forthwith be given by the party electing to terminate to the other party. Any termination pursuant to this Section shall be without liability on the part of any party to the other party hereto, except if such termination has resulted by reason of a breach by such party of any of its material obligations hereunder. Nothing in this Agreement shall be deemed to require any party to terminate this Agreement in the event that a condition precedent to its obligations hereunder is not met, rather than to waive such condition precedent and proceed to Closing.

Section 19. Notices. Any notice, request, demand, waiver, consent, approval, or other communication which is required or permitted to be given to any party hereunder shall be in writing and shall be deemed given only if delivered to the party personally or sent to the party by registered, certified mail (return receipt requested), or overnight mail using UPS or Federal Express, with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth below:

If to Buyer: Mr. G. Scott Carlson, President
 Helpmates, Inc.
 225 South Street
 Ridgway, PA 15853

With copies to: Mark S. Weaver, Esq.
 The Mazza Law Group, P.C.
 1315 S. Allen Street, Suite 302
 State College, PA 16801

If to Seller: Stephen R. Volpe
 1017 Green Glen Drive
 DuBois, PA 15801

With copies to: David J. Hopkins, Esq.
 The Hopkins Law Firm
 900 Beaver Drive
 DuBois, PA 15801

or to such other address or person as any party may have specified in a notice duly given to the other party as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered or mailed.

Section 20. Governing Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania as applied to contracts made and fully performed in such state.

Section 21. No Benefit to Others. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto and their respective successors and assigns and they shall not be construed as conferring, and are not intended to confer, any rights on any other persons.

Section 22. Section Headings. All section headings are for convenience only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 23. Schedules and Exhibits. All Schedules and Exhibits referred to herein are intended to be and hereby are specifically made a part of this Agreement.

Section 24. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and Seller and Buyer may become a party hereto by executing a counterpart hereof. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 25. Other Agreements. Upon Closing, the Buyer shall cause the Company to enter into an employment agreement with Stephen R. Volpe substantially upon the same terms and conditions as attached hereto as Exhibit E.

Section 26. Life Insurance. The parties acknowledge that the Company presently owns and is the beneficiary of a policy of life insurance (US Financial Life Insurance Company – Policy No. 163208) on the life of Stephen R. Volpe with death benefits of \$1,100,000.00. Upon Closing, the Company and/or Stephen R. Volpe shall cause the beneficiary of such policy to be changed to Buyer and the heirs of Stephen R. Volpe until such time as the promissory note described in Section 3 is paid in full. However, the portion of the proceeds payable from the life insurance policy to the heirs of Stephen R. Volpe shall not exceed the amount due on the promissory note. Upon payment in full of the amount due under the promissory note, the beneficiary shall be the Buyer.

Section 27. Contingency.

27.1. The obligations of Seller to close this transaction is contingent on Swift Kennedy Financial Company, Inc. not exercising its right of first refusal to purchase the business of Swift Kennedy & Associates, Inc. as described in an agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy & Associates, Inc. and Stephen R. Volpe.

27.2. The obligations of Seller to close this transaction is contingent on Matthew T. Ruttinger not exercising his right to purchase the business of Swift Kennedy & Associates, Inc. as described in an agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy & Associates, Inc. and Stephen R. Volpe.

27.3. The obligations of Buyer pursuant to this Agreement are specifically contingent upon Buyer receiving financing from an institution of Buyer's choice upon such terms and conditions as Buyer shall, in its sole discretion, deem favorable and in its best interest. Nothing contained herein shall obligate Buyer to accept any offer of financing that Buyer does not, in its sole discretion, deem not to be in Buyer's best interest for any reason. In the event Buyer does not close this transaction pursuant to this paragraph 27.3, Buyer shall pay Seller Thirty Thousand Dollars (\$30,000.00) within thirty (30) days of Buyer notifying Seller that Buyer is not closing or Seller fails to close pursuant to paragraph 2.1.

Section 28. Automobile. On or after May 1, 2004, Seller or Seller's estate may purchase a 1998 Honda Accord titled in the name of the Company from the Company for the purchase price of One Dollar (\$1.00).

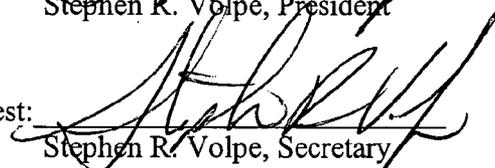
Section 29. Matthew T. Ruttinger. All references to the rights of Matthew T. Ruttinger and Swift Kennedy Financial Company, Inc. are those rights set forth in an Agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy Associates, Inc. and Stephen R. Volpe.

Section 30. Seller's Opinion of Counsel. At Closing, Seller's Counsel shall provide an opinion letter that the "Rights of First Refusal" of Swift Kennedy Financial Company, Inc. and Matthew T. Ruttinger have been removed or waived.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

Company:
Swift Kennedy & Associates, Inc.

By: 
Stephen R. Volpe, President

Attest: 
Stephen R. Volpe, Secretary

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President

Attest: _____
Secretary

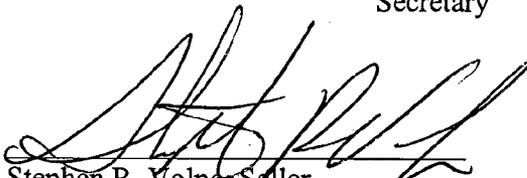

Stephen R. Volpe, Seller

EXHIBIT B

FIRSTADDENDUM TO STOCK PURCHASE AGREEMENT

THIS ADDENDUM, is made as of the _____ day of April, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, constituting the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

AND

G. Scott Carlson,

AND

Deborah Carlson,

WITNESSETH:

WHEREAS, on March 26, 2002, the parties executed a Stock Purchase Agreement.

WHEREAS, the parties wish to amend the March 26, 2002 Stock Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

Section 3.3 is hereby amended to read as follows:

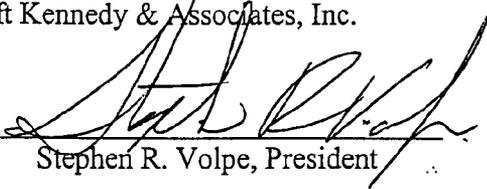
As security for the unpaid balance, G. Scott Carlson and Deborah Carlson, husband and wife, shall execute a personal guarantee to Seller in the full amount of the promissory note. In addition thereto, G. Scott Carlson shall procure a live

insurance policy paying death benefits of Five Hundred Thousand Dollars (\$500,000.00) and shall name Seller as the beneficiary of same. In the event of G. Scott Carlson's death, the death benefit shall be paid to Seller who shall refund any overpayment directly to Deborah Carlson.

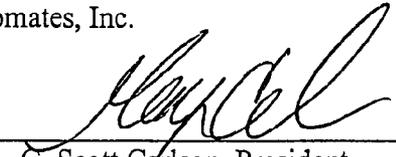
All other provisions of the March 26, 2002 agreement shall remain in full force and effect unless modified by this addendum.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

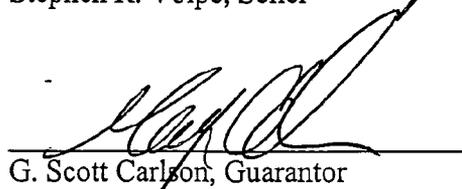
Company:
Swift Kennedy & Associates, Inc.

By: 
Stephen R. Volpe, President

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President


Stephen R. Volpe, Seller


G. Scott Carlson, Guarantor

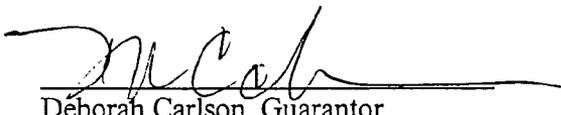

Deborah Carlson, Guarantor

EXHIBIT C

SECOND ADDENDUM TO STOCK PURCHASE AGREEMENT

THIS ADDENDUM, is made as of the 30th day of April, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, being the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

AND

G. Scott Carlson,

AND

Deborah Carlson,

WITNESSETH:

WHEREAS, on March 26, 2002, the parties executed a Stock Purchase Agreement.

WHEREAS, on April _____, 2002, the parties executed a First Addendum to the Stock Purchase Agreement.

WHEREAS, the parties wish to further amend the March 26, 2002 Stock Purchase Agreement set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

p #2

1. Section 30 is hereby added to read as follows:

In the event Buyer sells, conveys, merges or consolidates Swift Kennedy & Associates, Inc. within ten years of the closing date, Buyer shall pay Seller One Million Dollars (\$1,000,000.00) on the date of transfer.

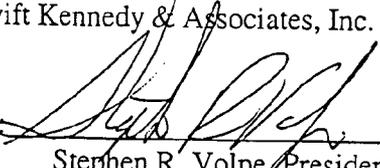
2. Section 1 of the Employment Agreement shall be amended to read as follows:

During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation at least five (5) hours per week.

3. All other provisions of the March 26, 2002 Stock Purchase Agreement as amended by the First Addendum to the Stock Purchase Agreement shall remain in full force and effect unless modified by this Second Addendum.

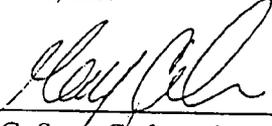
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

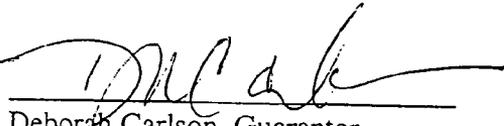
Company:
Swift Kennedy & Associates, Inc.

By: 
Stephen R. Volpe, President


G. Scott Carlson, Guarantor

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President


Deborah Carlson, Guarantor

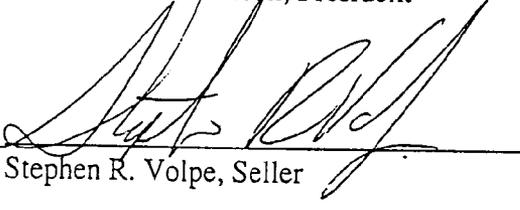

Stephen R. Volpe, Seller

EXHIBIT D

Employment Agreement

THIS AGREEMENT is made effective the 30th day of April, 2002, by and between:

Swift-Kennedy & Associates, Inc., a Pennsylvania corporation (hereinafter referred to as the "Corporation"),
and

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania 15801 (hereinafter referred to as the "Employee"). The Corporation hereby employs Employee and Employee hereby accepts employment on the terms and conditions that follow:

1. During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation at least five (5) hours per week.
2. All insurance sales business and/or services performed by the Employee and any revenues derived from them shall be considered the business and the income of the Corporation. The Employee shall be obligated during the term of this Agreement to irrevocably assign all revenues to the Corporation immediately upon receipt by the Employee other than as prohibited by the securities laws of the United States and the Commonwealth of Pennsylvania..
3. As compensation for the services to be rendered by Employee, the Corporation shall pay Employee a fixed salary at a rate per year specified in Schedule A, attached to this Agreement and made a part of it, payable in accordance with the Corporation's normal payroll periods for all employees unless otherwise agreed. Provided that if the employment shall terminate for any reason then the salary payable for the period during which the employment terminates shall be prorated. In addition, Employee shall be entitled to participate in the benefit plan(s) as specified on Schedule A, and shall receive commission compensation as specified on Schedule A.
4. As additional compensation, the corporation shall pay employee such bonus or bonuses as may from time to time be awarded to Employee by the Board of Directors of the Corporation, in its discretion, payable at times and in amounts that the Board of Directors may determine.

5. The term of employment shall be five (5) years from the date specified in Schedule A attached to this Agreement, but subject to the following:

(a) This Agreement may be terminated at any time by mutual agreement in writing of the Corporation and Employee.

(b) If during the effective period of this Agreement Employee violates any of the provisions of this Agreement, the Corporation may, on 30 days notice to Employee, terminate this Agreement.

(c) For cause, including without limitation, Employee's failure or refusal to perform obligations under this Agreement, the Corporation may terminate this Agreement at any time on 30 days notice to Employee.

(d) The corporation may terminate this Agreement on 30 days written notice to Employee in the event the Corporation adopts a bona fide plan to terminate its business and liquidate its assets, or on the Corporation being ordered to be liquidated pursuant to a judicial proceeding.

(e) At the end of the employment term as set forth herein, Employee may renew this Agreement on a year to year basis for so long as Employee so desires. Employee shall be compensated during the renewal terms of this Agreement by receiving fifty (50%) percent of commissions on the net commission payable to the Corporation on all new business and on renewals of new business generated from the commencement date of this Agreement. Corporation shall also be obligated to continue to provide health insurance to Employee and Employee's spouse as set forth on Schedule A.

6. Employee agrees that during the term of this Agreement he will not engage in any other business duties or pursuits whatsoever, directly or indirectly, except activities approved in writing by the Board of Directors, directorships and companies not in competition with the Corporation, and passive personal investments. Furthermore, employee will not, directly or indirectly, be interested in any business competing with or similar in nature to the business of the Corporation and will not hold to any substantial degree any securities in any company competing with the Corporation.

7. Employee agrees to observe and comply with the rules and regulations of the Corporation as adopted by the Corporation's Board of Directors, either orally or in writing, respecting performance of duties and to carry out and perform orders, directions, and policies stated by the Corporation, from time to time, either orally or in writing, as uniformly applied to all employees of the Corporation. Employee specifically understands that the Corporation shall have final authority over acceptance or refusal of any customer and over the amounts to be charged any customer for materials and/or services.

8. Employee recognizes and acknowledges that the list of the Corporation's customers, as it may exist from time to time, is a valuable, special, and unique asset of the Corporation's business. Employee will not, during or after the term of employment, disclose the list of the Corporation's customers or any part of it to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever. In the event of a breach or threatened breach by Employee of the provisions of this paragraph, the Corporation shall be entitled to an injunction restraining Employee from disclosing, in whole or in part, the list of the Corporation's customers, or for rendering any services to any person, firm, corporation, association, or other entity to whom this list, in whole in part, has been disclosed or threatened to be disclosed. Nothing in this Agreement shall be construed as prohibiting the Corporation from pursuing any other remedies available to the Corporation for such disclosure, including the recovery of damages from Employee.

9. During the period of employment, Employee will be reimbursed for reasonable expenses incurred on behalf of the Corporation in an amount not to exceed \$300 per month. In addition, Employee shall be entitled to use an automobile owned and insured by the Corporation as set forth on Schedule A in the conduct of business on behalf of the Corporation, and shall receive a credit card in the name of the Corporation for gasoline purchases. The Employee agrees to utilize the benefits set forth above only in accordance with the general policy of the Corporation as adopted by the Corporation's Board of Directors, from time to time and as uniformly applied to all employees of the Corporation. Corporation shall pay all of Employee's continuing education requirements and licensing fees, together with ancillary expenses, and such other expenses as are necessary to allow Employee to maintain his license to sell and broker insurance in the Commonwealth of Pennsylvania.

10. In addition to reimbursable expenses, the Employee may incur and pay in the course of employment by the Corporation certain other necessary expenses, which he will be required personally to pay and which the Corporation shall be under no obligation to reimburse, including, but not limited to the following: professional, entertainment, and promotional expenses; home telephone bills; educational expenses incurred for the purpose of maintaining or improving the Employee's skills other than continuing education requirements; club dues and the expenses of membership in civic groups, societies, and fraternal organizations; and all other items of reasonable and necessary expenses incurred by the Employee in the interests of the business of the Corporation. Nothing this paragraph will prevent the Corporation from agreeing to pay or reimburse Employee, in whole or in part, for any expenses in any of the categories enumerated above.

11. On termination of this agreement, Employee shall not be entitled to keep or preserve records or files that the Corporation has to any customers.

12. Employee shall be entitled to an annual vacation without loss of compensation, as specified in Schedule A attached to this Agreement. Employee shall be entitled to additional time without loss of compensation for attendance at meetings, conventions, and educational courses as the Board of Directors shall, from time to time, approve.

13. All notices required under this Agreement shall be in writing shall be deemed to have given at the time they are mailed in any general or branch United States Post Office, enclosed in a registered or certified postage paid envelope addressed to the respective parties as stated below, or to such changed address the party may have fixed by notice:

If to Corporation: Swift-Kennedy & Associates, Inc..
c/o Helpmates, Inc.
225 South Street
Ridgway, PA 15853
Attn: Mr. G. Scott Carlson, President

If to Employee: Mr. Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

Provided, however, that any notice of change of address shall be effective only upon receipt.

14. Failure to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of the term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers at anytime or times be deemed a waiver or relinquishment of the right or power for all or any other times.

15. Both parties recognize that the services to be rendered under this Agreement to the Corporation are special, and unique, and of extraordinary character. In the event of the breach by Employee of the terms and conditions of this Agreement, or in the event Employee shall without the written consent of the Corporation leave such employment and perform, in the future, services for any person, firm, or Corporation engaged in a competing business with the Corporation, then the Corporation shall be entitled to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in equity, to obtain damages for any breach of this Agreement, to enforce the specific performance by Employee, or to enjoin Employee from performing services for any other person, firm, or Corporation, during the period contracted for in this Agreement, without the need of posting any bond or other security during the pendency of such action.

16. The invalidity or unenforceable of any term, provision, or clause of this Agreement shall in no way impair or affect the validity or enforceability of any other provision of this Agreement, but shall remain in full force and effect.

17. This Agreement is personal in its nature and neither of the parties shall, without the consent of the other, assign or transfer this Agreement or any rights or obligations under this Agreement, except that the Corporation may assign or transfer this Agreement to a successor corporation in the event of merger, consolidation, transfer, or sale of all or substantially all of the assets of the Corporation, provided that in the case of any assignment or transfer, this Agreement shall be binding on and inure to the benefit of the successor corporation, and any successor corporation shall discharge and perform all of the obligations of the Corporation under this Agreement.

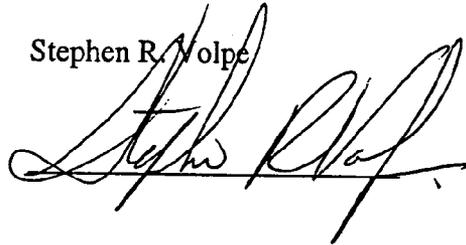
18. In the event of Employee's death or disability, Corporation shall nevertheless be obligated to maintain health insurance covering Employee and Employee's spouse as set forth in Schedule A. Employee or Employee's spouse may continue to have exclusive twenty four (24) hour use of a 2000 Honda Accord and on May 1, 2004, Employee or Employee's spouse may purchase said 2000 Honda Accord from the Corporation for One (\$1.00) Dollar.

In witness whereof, the parties to this writing have duly executed this Agreement as of the day and year first written above.

Swift Kennedy & Associates, Inc.

Stephen R. Wolpe

By: _____



Schedule A

Effective date of this agreement: April 30, 2002

Amount of annual salary: Thirty Five Thousand (\$35,000.00) Dollars per year, payable in accordance with the Corporation's normal payroll periods plus commission.

Commission: Employee shall be entitled to receive a fifty (50%) percent commission on the net commission payable to the Corporation on all new business and on renewals of new business (not existing or renewal business that existed prior to May 1, 2002) generated directly by Employee for all new policies written by Employee during the term of this Agreement. Payments to be made to Employee quarterly.

Annual vacation: Ten (10) weeks

Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue.

Automobile: Corporation shall pay the lease payment on Employee's leased Cadillac automobile until the term of said lease ends. Thereafter, Employer shall provide Employee with an automobile lease allowance of \$700.00 per month that Employee can supplement as Employee so desires.

Swift Kennedy & Associates, Inc.

Stephen R. Volpe

By: 

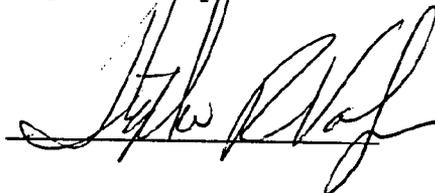


EXHIBIT E

SWIFT KENNEDY & ASSOCIATES, INC.**INSURANCE BROKERS & CONSULTANTS**

PO Box 1032
994 Beaver Drive
DuBois, PA 15801
Phone (814) 371-1052
Fax (814) 503-7047
Toll Free (800) 503-7750

COPY

Suite 2
311 South Allen Street
State College, PA 16801
Phone (814) 861-6564
Fax (814) 861-1258
www.swiftkennedy.com

August 18, 2003

Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

Re: Employment Suspension

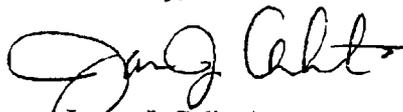
Dear Mr. Volpe:

As a result of your violations of your employment agreement with Swift Kennedy and Associates, Inc., management has regrettably come to the decision to suspend your employment. During the period of suspension, Swift Kennedy and Associates, Inc., will continue to pay your normal compensation. However, such continuation is without prejudice to Swift Kennedy and Associates, Inc.'s right to terminate compensation at any time and seek recompense for amounts paid, and is not to be construed as any type of waiver of any rights on behalf of Swift Kennedy and Associates, Inc.

Because you will not be engaging in any company business during the period of suspension, you are directed to return all company vehicles and all company property to the Swift, Kennedy & Associates office by 5:00 p.m. on August 19, 2003. Also, you are not authorized to incur any business expenses during the period of suspension, and Swift Kennedy and Associates, Inc., will not reimburse you for any expenses you incur during the period of suspension.

Please feel free to contact me with any questions.

Sincerely,



James J. Calistri
Vice President

EXHIBIT F



BUSINESS
TECHNOLOGY
CORPORATE
CONTRACT
LAW

October 27, 2003

FILE COPY

Mr. Carl A. Belin, Jr., Esq.
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Re: Volpe v. Swift, Kennedy & Associates, Inc.

Dear Mr. Belin:

In accordance with our recent telephone conversations regarding the above referenced matter, I am writing to inform you of Swift, Kennedy & Associates, Inc.'s (SKA), decision to terminate Stephen Volpe's employment with the company effective immediately. We discussed many of the problems at our meeting in your office on September 8, 2003. Our continuing efforts to address and resolve the situation have been unsuccessful. Based upon Mr. Volpe's behavior both before and after Judge Reilly's decision on July 9, 2003, it is clear that Mr. Volpe refuses to work for SKA in accordance with the terms of the contract. His failure to do so has caused significant damage to the company. Although SKA certainly wishes that an alternative solution could have been reached, in light of the current situation and as you and I have discussed, the only alternative is to terminate Mr. Volpe's employment.

Please have Mr. Volpe return all company property, including the automobiles, to SKA immediately. It is my understanding that the premium for the group health insurance policy under which Mr. Volpe is covered with SKA is paid through the end of November, 2003. Should Mr. Volpe desire to maintain health insurance coverage, he will need to obtain his own replacement policy. Of course, SKA is willing to assist and cooperate in any reasonable fashion, in accordance with required underwriting criteria.

Please feel free to contact me with any questions. Thank you.

Very truly yours,

Rodney A. Beard

RAB/hrr

c: Rodney Moline
Jerry Calistri

N:\Clients\Swift, Kennedy & Associates, Inc\Swift, Kennedy & Associates, Inc\Volpe Case 2\Belin.10-24-03.doc

EXHIBIT G



Rodney A. Beard, P.C.
Attorney at Law

January 24, 2003

FILE COPY

**BUSINESS
TECHNOLOGY
CORPORATE
CONTRACT
LAW**

www.rabeard.com

814.237.3101 ph.
814.237.3102 fax

2766 W. College Ave.
Suite 4
State College, PA 16801

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

Re: Stephen R. Volpe

Dear Mr. Hopkins:

Mr. Rodney Moline of Swift, Kennedy & Associates forwarded to me your correspondence of January 17, 2003, regarding Stephen Volpe. On behalf of Swift Kennedy, I believe a response is appropriate to clarify some of the matters raised in your letter.

The Employment Agreement between Mr. Volpe and Swift Kennedy states that Mr. Volpe "agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, . . ." In return for this, Mr. Volpe receives an annual salary of \$35,000, plus health insurance, a leased Cadillac, use of a Honda Accord, expense reimbursement up to \$300 per month, and fifty (50%) percent commission on all new business. This is a very attractive compensation package for Mr. Volpe. Your letter seems to indicate that Mr. Volpe feels he only needs to spend five (5) hours of time per week working for Swift Kennedy. I believe the correct reading of the agreement is that the corporation can request Mr. Volpe to spend at least five (5) hours per week in service as an Officer or Director of the Corporation. This is not the only limitation. Mr. Volpe is expected to work for Swift Kennedy on a normal basis. Even though the specific gradually reduced hourly amounts of time were removed from the initial drafts of the Employment Agreement when Mr. Volpe and Mr. Carlson were negotiating those agreements, I do not believe it is reasonable for Mr. Volpe to take the position that he only needs to work five (5) hours per week in return for such an attractive compensation package.

When Mr. Volpe and Mr. Moline had discussions about this, it was in the tone of strictly business considerations of what might be in the best interests and acceptable to all parties. The tone of your letter indicates that Mr. Volpe may have misinterpreted this point, and I would like to set the record straight in that regard.

David J. Hopkins, Esquire

Page 2

January 24, 2003

Also, Paragraph 7 of the Employment Agreement states that Mr. Volpe is to "observe and comply with the rules and regulations of the Corporation as adopted by the Corporation's Board of Directors, either orally or in writing, respecting performance of duties and to carry out and perform orders, directions and policies stated by the corporation, from time to time, either orally or in writing, as uniformly applied to all employees of the Corporation." This paragraph reveals the intent of the Agreement that Mr. Volpe basically be treated as an employee of the corporation, along with all other employees. Mr. Volpe needs to understand that he is an employee of Swift Kennedy now, and no longer an owner of the business. Employees compensated at his rate are expected to work full-time.

I wish to clarify that Swift Kennedy did nothing to remove Mr. Volpe from his office. Due to personnel changes, Mr. Calistri is now occupying the office which Mr. Volpe previously occupied. It is my understanding that some of the personal effects that Mr. Volpe maintained in that office were moved from the office, but that Mr. Volpe has not been deprived of these items and he still has a desk located in the Swift Kennedy premises, like other employees.

Also, Mr. Volpe still has email. Due to computer changes instituted by Swift Kennedy, the email was down for one (1) day, and Mr. Volpe's email address changed, but the corporation maintains an email account for him, which he is free to use for authorized business purposes.

For some reason, it seems that Mr. Volpe does not like to work with Mr. Calistri. Of course, Swift Kennedy hopes that this does not become a larger problem for Mr. Volpe, as he will be expected to perform in accordance with normal employment procedures.

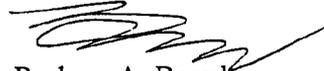
In addition, I would request that you remind Mr. Volpe of the importance of not making unjustified disparaging remarks regarding Swift Kennedy, or otherwise indicating to anybody comments similar to those in your letter. Such matters are best kept confidential and handled through appropriate workplace procedures. Creating dissension or ill will among other employees is not acceptable.

I was somewhat concerned with the tone of your letter and the threat of an age discrimination action. Swift Kennedy does not discriminate against any employees on the basis of age, sex, national origin, religion, disability, or any other illegal basis. However, all employees are expected to perform their duties on behalf of the company. I interpret your threat of an age discrimination lawsuit as perhaps an overly zealous and misguided method of representing your client's interest. Making threats of this nature certainly is not the way to assist with interpreting and clarifying the Employment Agreement.

David J. Hopkins, Esquire
Page 3
January 24, 2003

As stated in your letter, I agree that it is important for both parties to fully comply with the contractual obligations contained in the Employment Agreement, unless and until any of those obligations are changed by mutual agreement. I hope this helps clarify some of the issues for you. Please feel free to contact me with any questions. Thank you.

Very truly yours,



Rodney A. Beard

RAB/hrr

c: Rodney Moline

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EXHIBIT H

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE

-vs-

SWIFT, KENNEDY & ASSOCIATES, INC.

:
:
:
:
:

No. 03 – 225 – CD

OPINION AND ORDER

Plaintiff above-named has filed a Complaint for Declaratory Action pursuant to 42 P.S. §7542. In his Complaint, Plaintiff alleges that prior to March 26, 2002, he was the owner of all stock in Swift, Kennedy & Associates, Inc., a Pennsylvania corporation engaged in the business of selling employee benefits and health insurance throughout the Commonwealth of Pennsylvania. He further alleges that on March 26, 2002, he, as sole stockholder of Swift, Kennedy & Associates, Inc. entered into a stock purchase agreement with Helpmates, Inc. under the terms of which Plaintiff agreed to sell all of the common stock of Swift, Kennedy & Associates, Inc. to Helpmates, Inc. On April 30, 2002, the transaction closed and Plaintiff conveyed all corporate stock of Swift, Kennedy & Associates, Inc. to Helpmates, Inc. and on that date Plaintiff resigned as an officer and director of Swift, Kennedy & Associates, Inc. Also, on April 30, 2002, Plaintiff and Defendant entered into an employment agreement, which provided in paragraph 1 as follows:

During the period of employment, Employee [Volpe] agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation [Swift Kennedy], as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation [Swift Kennedy], and at the Corporation's [Swift Kennedy's] request to serve as an officer in/or director of the Corporation [Swift Kennedy] at least five (5) hours per week.

Plaintiff now seeks to have this Court declare that under the terms of paragraph 1 of the employment agreement set forth above, he is required to work no more than five hours per week as a salesman of health related benefits.

Hearing thereon was held May 21, 2003, at which time Plaintiff presented witnesses as to the intent of the parties at the time the above agreement was entered into.

The general rule of law is that in interpreting a contract, the Court must first examine its language and if the language is clear and unequivocal, its meaning must be determined by its contents alone. See Com. Dept. of Transp. v. Manor Mines, Inc., 523 Pa. 112, 565 A.2d 428 (1989). Further, the Supreme Court of Pennsylvania, in Murphy v. Duquesne Univ. of the Holy Ghost, 565 Pa. 571, 777 A.2d 418 (2001) held as follows:

“When a writing is clear and unequivocal, its meaning must be determined by its contents.” Felte v. White, 302 A.2d 347, 351 (Pa. 1973) (quoting East Crossroads Center Inc. v. Mellon-Stuart Co., 205 A.2d 865, 866 (Pa. 1965)). Only where a contract’s language is “ambiguous” may extrinsic or parol evidence be considered to determine the intent of the parties. Hutchinson v. Sunbeam Coal Co., 519 A.2d 385, 390 (Pa. 1986). A contract contains an ambiguity “if it is reasonably susceptible of different constructions and capable of being understood in more than one sense.” Id. This question, however, is not resolved in a vacuum. Instead, “contractual terms are ‘ambiguous’ if they are subject to more than one reasonable interpretation when applied to a particular set of facts.” Madison Construc. Co. v. Harleysville Mut. Ins. Co., 735 A.2d 100, 106 (Pa. 1999). In the absence of an ambiguity, the plain meaning of the agreement will be enforced. Gene & Harvey Builders, Inc. v. Pennsylvania Mfrs.’ Ass’n Ins. Co., 517 A.2d 910, 913 (Pa. 1986).

In the instant case, it is clear to this Court that paragraph one of the employment agreement is clear upon its face, is not ambiguous and is not reasonably susceptible of different constructions or capable of being understood in more than one sense. Only one reasonable interpretation can be applied to this set of facts and that is that the Plaintiff must devote his skill

and efforts to the performance of duties on behalf of the corporation as a sales person. In this regard, no specific hours or times are set forth. It is further clear that at the corporation's request he must serve as an officer in/or director of the corporation at least five hours per week. This time requirement applies only to the corporation's request that he serve in the capacity of officer or director.

If view of this and of the Appellate decisions cited above, parol evidence is inadmissible as the intent of the parties is clear from the document set forth above.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 9th day of July, 2003, following hearing and briefs into the above-captioned Complaint for Declaratory Action, it is the ORDER of this Court that said Complaint be and is hereby dismissed in accordance with the foregoing Opinion.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 10 2003

Attest.

William J. Reilly
Prothonotary/
Clerk of Courts

EXHIBIT I

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE

:

-vs-

:

No. 03 – 225 – CD

SWIFT, KENNEDY & ASSOCIATES, INC. :

ORDER

NOW, this 17th day of April, 2003, this being the day and date set for hearing into the above-captioned Petition for Injunctive Relief, it is the ORDER of this Court that full hearing on the underlying Complaint for Declaratory Judgment shall be heard by this Court on Wednesday, May 21, 2003, at 9:00 a.m. Pending said hearing and determination thereof, Plaintiff shall be required to work for Defendant on the basis of five hours a week with the Defendant to schedule said hours at Defendant's convenience. In the event that Defendant is successful in the Declaratory Judgment action, either Defendant or Helpmates, Inc. may petition the Court to off-set all or part of said compensation paid from date hereof to the date of the determination of the Declaratory Judgment action.

By the Court,

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

:
:
:
: No. 03-1867-CD
:
:
:

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer, New Matter and Counterclaim was served by U.S. First Class Mail, postage prepaid in State College, Pennsylvania, on the 26th day of February, 2004, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

2/26/04
Date


Rodney A. Beard, Esquire
Attorney for Defendants
Sup. Ct. I.D. No. 49909
2766 West College Avenue, Suite 100
State College, PA 16801
(814) 237-3101

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
: No. 03 - 1867 - CD
vs. :
: JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : PLAINTIFF'S REPLY TO
: DEFENDANTS' NEW MATTER
: AND ANSWER TO
: COUNTERCLAIM

~~RETURNED TO SENDER~~
~~FILED TO CCM~~

AND NOW comes Plaintiff, (to be filed on behalf of Volpe), by
Plaintiff
and through his attorneys, Belin & Kubista, and files the
Counsel of Record for
collected reply to new matter and This Party: counterclaim, and

in support thereof, as set forth below: Carl A. Belin, Jr., Esquire
PA I.D. #06805

23. Paragraphs 3 & through 32 of the defendant's complaint are
hereby incorporated by reference of BELIN & KUBISTA
15 North Front Street
P.O. Box 1

34. Paragraph 34 is admitted. Clearfield, PA 16830
(814) 765-8972

35. Paragraph 35 is admitted.

36. Paragraph 36 is neither admitted nor denied as after
reasonable investigation Plaintiff is without knowledge or
information sufficient to form a belief as to the truth of the
matter and, if admitted, strict proof thereof is demanded of
defendant.

37. Paragraph 37 is admitted.

FILED

MAR 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,

Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
AND HELPMATES, INC.,

Defendants

:
:
: No. 03 - 1867 - CD
:
: JURY TRIAL DEMANDED
:
: PLAINTIFF'S REPLY TO
: DEFENDANTS' NEW MATTER
: AND ANSWER TO
: COUNTERCLAIM

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

MAR 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : NO. 03 - 1987 - CD
vs. :
 :
 :
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

PLAINTIFF'S REPLY TO DEFENDANTS' NEW MATTER
AND ANSWER TO COUNTERCLAIM

AND NOW comes Plaintiff, Stephen R. Volpe ("Volpe"), by and through his attorneys, Belin & Kubista, and files the following reply to new matter and answer to counterclaim, and in support thereof, avers as follows:

33. Paragraphs 1 through 32 of Plaintiff's complaint are hereby incorporated by reference and made a part hereof.

34. Paragraph 34 is admitted.

35. Paragraph 35 is admitted.

36. Paragraph 36 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

37. Paragraph 37 is admitted.

38. Paragraph 38 is admitted and it is averred that G. Scott Carlson ("Carlson") and Helpmates, Inc. ("HI") were also represented throughout said negotiations by Rodney Beard, Esquire, then of Mazza Law Associates ("Beard").

39. Paragraph 39 is admitted but it is averred that Beard prepared the original draft, which was modified as a result of negotiations between Volpe and Carlson or their attorneys. It is averred the Second Addendum was prepared sometime in early or mid April, and it is believed and averred both Carlson and Beard were aware of its contents before April 30, 2002.

40. Paragraph 40 is admitted, but it is averred both rights of first refusal were granted in one contract between Matthew Ruttinger ("Ruttinger"), SKA and Volpe which contract granted those rights to Ruttinger and Swift, Kennedy Financial ("SKF").

41. Paragraph 41 is admitted.

42. Paragraph 42 is admitted.

43. Paragraph 43 is denied and it is averred that Volpe did disclose to Carlson all the necessary specifics of the Rights of First Refusal to purchase the stock of SKA between the parties holding those rights as the rights of first refusal were typical and had no special conditions that were relevant to the transaction.

44. Paragraph 44 is denied as Volpe needed no "protection" to prevent the other persons and/or entities having the right of first refusal from exercising those rights. It is further averred that the contract terms set forth in the Stock Purchase Agreement executed on March 26, 2002, between Volpe and HI were communicated to Ruttinger and SKF in March of 2002, and the rights of first refusal were waived before closing occurred on April 30, 2002.

45. Paragraph 45 is denied and it is averred that the Second Addendum was drafted and executed after it became clear that the holders of the right of first refusal did not intend to exercise their rights but was an addendum prepared and added at a time it became clear that HI would be the successful purchaser of the stock of SKA.

46. Paragraph 46 is denied and it is averred that Volpe read the Employment Agreement dated April 30, 2002, with the understanding existing between he and Carlson that it contained provisions that he would be obligated to serve SKA not more than five (5) hours per week various duties set out in the Employment Agreement, including as a salesperson of health related benefits.

47. Paragraph 47 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is

deemed denied and no response to such an allegation is required by said Rule.

48. Paragraph 48 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response to such an allegation is required by said Rule.

49. Paragraph 49 is admitted that Volpe continued to work for SKA as he had before the closing of the stock purchase transaction, however he did not work regular hours or regular days but did spend more time at SKA than the five (5) hours per day required under the contract.

50. Paragraph 50 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. It is admitted that G. Scott Carlson no longer was communicating with the offices of SKA in August of 2002.

51. Paragraph 51 is denied and it is averred that Volpe continued to work on the same basis for SKA that he had worked when Carlson was directing SKA, and it is averred that he was working essentially the same hours that he was working after the stock transaction was closed. It is also averred that he was working more than the five (5) hours per week required by

the contract.

52. Paragraph 52 is denied and it is averred that he was keeping SKA informed of his activities on the same basis that he had followed after the closing of the stock transaction and while Carlson was still in close contact with SKA.

53. Paragraph 53 is admitted that the Employment Agreement dated April 30, 2002, contains the language in Paragraph (1) set forth in Paragraph 53.

54. Paragraph 54 is denied and it is averred that Volpe continued to work to develop business for SKA and continued to work on the same basis as he had after the stock transaction up to the time that Carlson was no longer communicating with SKA.

55. Paragraph 55 is admitted that a meeting was called by SKA management and Volpe on December 23, 2002, to review the communications that were occurring between Volpe and the management, and it is further averred that a letter dated January 30, 2003, of SKA to Volpe sets forth the agenda items of the meeting, which letter is attached hereto as Exhibit "E" and incorporated herein by reference.

56. Paragraph 56 is denied as stated and it is averred that after reviewing the various issues set forth in the letter hereinbefore referred to in Paragraph 55, that Volpe had offered "to take the business back" although no specifics were

discussed in connection with said offer.

57. Paragraph 57 is admitted as set forth in a letter from SKA to Volpe which was undated but was received by Volpe on January 16, 2003, a copy of which is attached hereto as Exhibit "F" and is hereby incorporated by reference and made a part hereof.

58. Paragraph 58 is admitted and said expectations were set forth in the letter hereinbefore attached to Paragraph 55 of the Reply to New Matter which is hereby incorporated by reference and made a part hereof. It is averred that the parties continued to disagree over the proper construction of the Employment Agreement and SKA's construction continued to be the basis for their expectations.

59. Paragraph 59 is denied and the parties continued to disagree over the proper meaning of the Employment Agreement and as a result of being unable to resolve their differences as to the proper construction of that agreement, Volpe filed a declaratory judgment against SKA in the Court of Common Pleas to Number 03-225.

60. Paragraph 60 is admitted but it is also averred that an appeal to the Superior Court has been filed from said order as of March 15, 2004, which appeal is pending before the Superior Court at 423 WDA 2004 ("the appeal").

61. Paragraph 61 is admitted that Judge Reilly decided that Volpe was to work on the same terms and conditions as other salespersons of health related benefits of SKA, and in further answer thereto the answer to Paragraph 60 of the Reply to New Matter is hereby incorporated by reference and made a part hereof.

62. Paragraph 62 is denied and it is averred that Volpe submitted information where he had contacted prospective customers for additional business for SKA and was available to perform the duties set forth in the Employment Agreement.

63. Paragraph 63 is denied as averred, and it is further averred that while it is admitted that Volpe continued to read newspapers to learn of insurance developments and prospects on the same basis he had done both after the closing and before Carlson stopped communicating with SKA, it is denied that Volpe would agitate office personnel, create dissention and tension among office personnel. It is admitted Volpe made a diary as to personnel attendance but it is averred that his activities were the same as he had performed after the sales contract and before Carlson was no longer in contact with SKA.

64. Paragraph 64 is denied and in further answer thereto Paragraph 62 of the Reply to New Matter is hereby incorporated by reference and made a part hereof.

65. Paragraph 65 is denied and in further answer thereto, Paragraphs 51 through 64 of the Reply to New Matter are hereby incorporated by reference and made a part hereof, and it is further averred that post trial motions were filed to the decision of Judge Reilly and thereafter that an appeal has been filed to the Superior Court concerning the declaratory judgment entered by Judge Reilly.

66. Paragraph 66 is admitted.

67. Paragraph 67 is admitted.

68. Paragraph 68 is denied, and it is averred that in filing the second case Volpe was attempting to determine the actual content and meaning of the Employment Agreement so he could provide the duties for SKA he agreed upon in that agreement. Moreover, Volpe met with the officers of SKA on September 8, 2003, and reiterated his commitment to work for SKA.

69. Paragraph 69 is denied as Volpe intended to work for SKA until he reached the age for retirement and Medicare eligibility, and in further answer thereto the answer to Paragraph 68 of the Reply to New Matter is hereby incorporated by reference and made a part hereof.

70. Paragraph 70 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or

information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, Volpe denies that he "badmouthed" SKA in the community or that he sabotaged some of SKA's major insurance contracts.

71. Paragraph 71 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response to such an allegation is required by said Rule.

72. Paragraph 72 is denied that Volpe ever filed any claims with the U.S. Department of Labor, however it is admitted that the initial contact as to the Department of Labor involved his daughter, Lisa, who had been employed by SKA before the closing, had been terminated as to her insurance and had not been afforded any rights under COBRA, and in further conversations with the Department of Labor Volpe expressed a concern as to whether he was receiving the appropriate benefits by SKA given SKA's construction of the contract.

73. Paragraph 73 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

74. Paragraph 74 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. As to the defenses pleaded of accord and satisfaction, prior award, prior determination, justification, release, res judicata, collateral estoppel, estoppel, setoff, consent, and privilege, all constitute conclusions of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 are deemed denied and no response to such allegations is required by said Rule.

WHEREFORE, the Plaintiff demands judgment from the Defendants in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNTERCLAIMS - COUNT I
SKA and HI v. VOLPE

75. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter are hereby incorporated by reference and made a part hereof.

76. Paragraph 76 is admitted and it is further averred that the obligations of Volpe are contained in the Stock Purchase Agreement and amendments thereof and the Employment Agreement of April 30, 2002, which are attached to Defendants'

New Matter and Counterclaim, which agreements are hereby incorporated by reference and made a part hereof.

77. Paragraph 77 is denied as averred. It is admitted Paragraph 77 sets forth part of the duties of Volpe as it sets forth in part the language that appears in the Employment Agreement of April 30, 2002, and said Employment Agreement is admitted. In further answer thereto it is averred that the intent of said language is to provide that Volpe was to work at least five (5) hours per week in various capacities for SKA.

78. Paragraph 78 is denied and it is averred that the purpose of said Employment Agreement was to provide a part of the purchase price under the Stock Purchase Agreement by continuing compensation to Volpe either through salary or commissions until Volpe reached retirement age under Social Security and by providing health insurance until Volpe became eligible for Medicare. It is averred Volpe was to assist in the transition of the business following closing and thereafter to work for SKA in the various activities set forth in the contract.

79. Paragraph 79 is denied and in further answer thereto Paragraphs 1 through 32 of Plaintiff's Complaint, Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 78 of the Counterclaim are hereby incorporated by

reference and made a part hereof.

80. Paragraph 80 is denied and in further answer thereto Paragraphs 1 through 32 of Plaintiff's Complaint, Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 79 of the Counterclaim are hereby incorporated by reference and made a part hereof. As to that part of the allegation in Paragraph 80 that SKA and HI have been damaged, Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

81. Paragraph 81 is denied and in further answer thereto Paragraphs 1 through 32 of Plaintiff's Complaint, Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 80 of the Counterclaim are hereby incorporated by reference and made a part hereof. As to the part of the allegation in Paragraph 81 that the total damage exceeds \$25,000, Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count I of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of the Plaintiff in the amounts set forth in Counts I - IV of the

Complaint which are incorporated by reference and made a part hereof.

COUNT II
SKA and HI v. VOLPE

82. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 81 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

83. Paragraph 83 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, Volpe denies "badmouthing" SKA to existing accounts and otherwise in the community.

84. Paragraph 84 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and as a result strict proof thereof is demanded at trial. In any event, Volpe denies that he surreptitiously and intentionally communicated false and negative information about SKA to others in the community.

85. Paragraph 85 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or

information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, Volpe denies he caused intentional interference with the prospective business advance of SKA and HI or that he negatively affected the return on HI's invest in SKA.

86. Paragraph 86 is denied and it is averred that Volpe did not make disparaging and false statements and otherwise "badmouthing" SKA and HI or that he caused SKA and HI pecuniary loss, and in further answer thereto, as to the pecuniary loss, after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

87. Paragraph 87 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial; in any event, Volpe denies he "badmouthed," disparaged or intentionally interfered with any prospective business advantage of SKA, and in further answer thereto, Paragraphs 83 through 86 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count II of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT III
HI v. VOLPE

88. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 87 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

89. Paragraph 89 is admitted that in Paragraph 5.8 of the Stock Purchase Agreement it is provided that the company has no liabilities or obligations except as disclosed on Exhibit "B" attached to said contract. It is averred that Volpe disclosed all such liabilities or obligations to SKA prior to the closing of the transaction, except as are set forth in Exhibit "B" attached to said contract.

90. Paragraph 90 is denied and in further answer Paragraph 89 of the Answer to Counterclaim is hereby incorporated by reference and made a part hereof.

91. Paragraph 91 is neither admitted nor denied as after

reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, the Stock Purchase Agreement contains a paragraph, Paragraph 5.8, regarding the expenses and undisclosed liabilities. Said paragraph provides that the right of offset applies only to those liabilities of which SKA and HI have given Volpe ten (10) days notice after "learning of said liabilities." It is averred SKA and HI have never given any ten (10) day notice as to any undisclosed liabilities and are barred from recovering under the contract. In further answer to Paragraph 91, Paragraphs 89 and 90 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

92. Paragraph 92 is admitted that the Stock Purchase Agreement contains Paragraph 5.8 regarding an offset as to the expenses and undisclosed liability. Said agreement provides that the right of offset applies only to those liabilities of which SKA and HI have given ten (10) day notice after "learning of said liabilities." It is averred SKA and HI have never given any ten (10) day notice as to any undisclosed liabilities and are barred from recovering under the contract.

93. Paragraph 93 is neither admitted nor denied as after

reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In further answer thereto, Paragraphs 89 through 92 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count III of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT IV
SKA V. VOLPE

94. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 93 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

95. Paragraph 95 is denied and it is averred that Volpe used the Cadillac vehicle as he had in the past and it was understood between SKA and Volpe that upon the execution of the stock sales agreement and employment agreement that he would be using the vehicle as he had in the past before the closing of

the said transaction. It is further averred that Volpe used the Cadillac generally where he would be either entertaining present and prospective customers of SKA and it is averred that Volpe only used the Cadillac for incidental personal use and it is denied that he generally incurred expenses completely unrelated to business that he submitted to SKA.

96. Paragraph 96 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, it is denied Volpe intentionally hid the true nature of any expenses submitted to SKA for reimbursement as the expenses were submitted on the same basis as they had been from the closing on April 30, 2002.

97. Paragraph 97 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In further answer thereto, Paragraphs 95 and 96 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof. In any event, it is denied that SKA in fact reimbursed Volpe for "illegitimate, non-business related expenses."

98. Paragraph 98 is denied and in further answer thereto, Paragraphs 95 through 97 of the Answer to Counterclaim are incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count IV of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT V
SKA v. VOLPE

99. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 98 of the Counterclaim are hereby incorporated by reference and made a part hereof.

100. Paragraph 100 is admitted but it is averred that SKA has not paid Volpe all monies it owed him under the employment contract as it discontinued paying Volpe his salary in late September even though he was not terminated until October 27, 2003.

101. Paragraph 101 is admitted but it is averred that an appeal has been filed to the Order to the Superior Court and that the appeal is pending.

102. Paragraph 102 is admitted but it is averred that an appeal has been filed to the Order to the Superior Court and that the appeal is pending.

103. Paragraph 103 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In further answer thereto, Paragraph 100 of the Answer to Counterclaim is hereby incorporated by reference and made a part hereof.

104. Paragraph 104 constitutes a demand rather than an allegation of fact and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response to such an allegation is required by said Rule. In any event, in further answer thereto, Paragraphs 101 through 103 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count V of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT VI
SKA v. VOLPE

105. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 104 of the Counterclaim are hereby incorporated by reference and made a part hereof.

106. Paragraph 106 is denied that any negotiated employment separation agreement was ever negotiated or was one ever agreed upon, but it is admitted the parties did agree sometime in late October or early November that the Honda would be transferred as soon as possible rather than to wait until May of 2004 as set forth in the Stock Purchase Agreement.

107. Paragraph 107 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, Volpe denies any negligence in maintaining the records as to the Honda.

108. Paragraph 108 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. It is admitted the documents necessary to transfer the

Honda were delivered to Volpe on March 15, 2004.

109. Paragraph 109 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event, Volpe hereby incorporates Paragraphs 106 through 108 of the Answer to Counterclaim and makes them a part hereof. It is further averred that SKA actually was able to save costs and expenses by transferring title to the Honda before May 1, 2004, when it was obligated to transfer the title to Volpe.

110. Paragraph 110 is neither admitted nor denied as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. It is further denied that Volpe in any way intentionally delayed the transfer of the title of the Honda vehicle to Volpe and in further answer thereto Paragraphs 106 through 109 of the Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count VI of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of

Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT VII
SKA v. VOLPE

111. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and Paragraphs 78 through 110 of the Counterclaim are hereby incorporated by reference and made a part hereof.

112. Paragraph 112 is denied as averred and it is averred that the Employment Agreement provides in Schedule "A" that the company will continue to pay the lease payments on Volpe's Cadillac until the term of the lease ends and thereafter provide a lease allowance of \$700.00 per month for the replacement vehicle which could be supplemented as Volpe desired. It is averred the use of the Cadillac would be used as Volpe had used in the past in the business of SKA and, in further answer thereto, Paragraph 95 of the Counterclaim is hereby incorporated by reference and made a part hereof.

113. Paragraph 113 is denied and it is averred that from and after August 2002, the Cadillac was in Volpe's possession as a result of an Order from Judge Reilly entered on September 8, 2003, and it is denied that any use of benefits were

withheld from SKA as it had suspended Volpe on August 17, 2003, and prevented him from providing any services to SKA thereafter.

114. Paragraph 114 is denied, and in further answer thereto, Paragraphs 112 and 113 of this Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

115. Paragraph 115 is denied, and in further answer thereto, Paragraph 113 of this Answer to Counterclaim is hereby incorporated by reference and made a part hereof.

116. Paragraph 116 is denied, and in further answer thereto, Paragraphs 112 through 115 of this Answer to Counterclaim are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count VII of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

COUNT VIII
SKA and HI v. VOLPE

117. Paragraphs 1 through 32 of the Complaint and Paragraphs 33 through 74 of the Reply to New Matter, and

Paragraphs 78 through 110 of the Counterclaim are hereby incorporated by reference and made a part hereof.

118. Paragraph 118 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response to such an allegation is required by said Rule.

119. Paragraph 119 is denied and it is averred that Volpe has not "badmouthed" and disparaged SKA and HI to any existing accounts or the community in general. As to the remainder of the allegation set forth in Paragraph 119 Volpe neither admits nor denies as after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

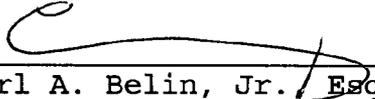
120. Paragraph 120 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response as to such an allegation is required by said Rule.

121. Paragraph 121 sets forth a conclusion of law and pursuant to Pennsylvania Rule of Civil Procedure No. 1029 is deemed denied and no response is required by said Rule. In further answer thereto, Volpe denies that he acted in bad faith or dealt unfairly with SKA and HI in the performance of his

duties and obligations under the Employment Agreement.

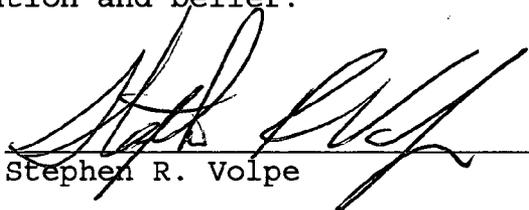
WHEREFORE, Plaintiff demands that judgment be entered against the Defendants on Count VIII of the Counterclaim and in favor of the Plaintiff and that judgment be entered in favor of Plaintiff in the amounts set forth in Counts I - IV of the Complaint which are incorporated by reference and made a part hereof.

BELIN & KUBISTA

By 
Carl A. Belin, Jr. Esq.
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared
STEPHEN R. VOLPE, being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Reply to New
Matter and Answer to Counterclaim are true and correct to the
best of his knowledge, information and belief.



Stephen R. Volpe

Sworn and subscribed before me this 24th day of

March, 2004.



Notary Public

NOTARIAL SEAL
SUSAN M. HARTZFELD, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD COUNTY
MY COMMISSION EXPIRES AUGUST 16, 2005



HELPMATES, INC.

Home Health Care Agency

225 South Street
Ridgway, PA 15853

Phone: (814) 772-6850

Fax: (814) 772-6851

Steve Volpe
1017 Green Glenn Drive
Dubois, PA 15801

*TO: David 1-16-03
Let me know your thoughts
Steve*

Dear Steve:

After a lengthy meeting with the Board of Directors of Helpmates, Inc. we are offering you a buyout of your employment agreement with Helpmates, Inc., which consists of a one-time lump sum of \$50,000.00 and health insurance until the age of 65.

We also have the two concessions for you to consider, which we reviewed with you on December 23, 2002:

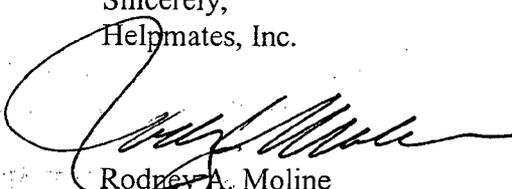
The first one being: A sales consultant position with a salary of \$12,000.00 per year for the remainder of the 5-year contract, 50% commission on new business, health insurance until the age of 65, auto lease would be paid until the lease matures, and the removal of the \$1,000,000 10-year covenant if Swift Kennedy & Associates would be sold.

The second one is: A full time sales position with an annual salary of \$35,000.00, 50% commission on new business, health insurance until the age of 65, auto lease would be paid until the lease matures, and the removal of the \$1,000,000 10-year covenant if Swift Kennedy & Associates, Inc. would be sold. You would also be required to report to work on a daily basis; this would include putting in the necessary time to hit your annual goals & objectives.

You also indicated that you might be interested in buying back the agency. We are not interested in doing so at this time.

Please contact me with your thoughts and hopefully we can reach a mutual agreement.

Sincerely,
Helpmates, Inc.

RAM 1-16

Rodney A. Moline
President/CEO

RAM/gl

Exhibit "F"

SWIFT KENNEDY & ASSOCIATES, INC

Insurance Brokers & Consultants

PO Box 1032
994 Beaver Drive
DuBois, PA 15801
Phone (814) 371-1052
Fax (814) 371-2898
www.swiftkennedy.com

January 30, 2003

Mr. Steve Volpe
1017 Green Glen Dr.
DuBois, PA 15801

Dear Steve:

As you requested during our phone conversation Wednesday January 29, 2003, I am providing you in writing with the information discussed. Please keep in mind that if you believe this information is any different than your employment agreement; you should contact the corporate office to discuss.

• **INSURANCE:**

Swift Kennedy & Associates, Inc. has been paying for Lisa Volpe's health insurance since May 2002. You have been notified both verbally and by email that she must be removed. I informed you that Swift Kennedy & Associates, Inc. has paid her insurance through the end of February 2003. She will be terminated from the group policy at that point. Swift Kennedy & Associates will bill you for those months. Should you not make payment within 30 days the premium will be deducted from your pay. To answer your question, she is being terminated because she is not an employee of Swift Kennedy & Associates or Helpmates and is not entitled to coverage under Swift Kennedy & Associates, Inc., or Helpmates employee benefits policies.

• **VACATION:**

Your 7-week vacation will end on or about February 21, 2003. I informed you that when you return, you are expected to work a normal work schedule as any staff member. Monday through Friday 8:30AM-5:00PM. You are aware that workspace is temporary limited do to the additional staff members, but we have space available for all staff members.

• **RESPONSIBILITIES:**

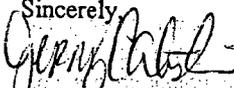
As a producer for Swift Kennedy & Associates, your responsibility is to sell new business and service any accounts you sold since May 2002. If you would like the agency to service these accounts, please let me know. All other accounts are the responsibility of the agency.

• **VENDOR MANAGEMENT:**

As a producer, you are no longer responsible for vendor management or authorized to negotiate agreements on behalf of Swift Kennedy & Associates, Inc. If there is an additional product or line of business that you would like Swift Kennedy & Associates to consider adding to the product portfolio, please let me know.

I trust this information is helpful. Should you have any questions, please contact me at your convenience.

Sincerely,


Jerry Calistri

C: Rodney Moline
Rodney Beard

Exhibit "E"

BELIN & KURISTA
ATTORNEYS AT LAW
15 NORTH FRONT STREET
P.O. BOX 4
CLEARFIELD, PENNSYLVANIA 16830

Prothonotary/Clerk of Courts

William A. Shaw

FILED
MAR 25 2004
WCC
Amy Belin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
Plaintiff	:	
vs.	:	No. 03 - 1867 - CD
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	CERTIFICATE OF
Defendants	:	SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED *REC*
010:5860
JUL 11 2005 *LB*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

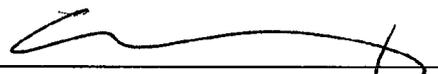
STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent an original of Plaintiff's Second Set of Interrogatories and Second Request for Production of Documents in the above-captioned matter to the following party by postage prepaid United States first class mail on the 8th day of July, 2005:

Rodney A. Beard, Esquire
2766 West College Avenue, Suite 100
State College, PA 16801

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Praecipe

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028
(814) 548-0030 fax

FILED *no cc*
m/114301
AUG 22 2005 *@*

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC., :
Defendants :

PRAECIPE

TO THE PROTHONOTARY:

Kindly change my address in your official records in the above referenced matter as follows:

New Address:

Rodney A. Beard
Beard Law Company
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax

Respectfully submitted,

8/17/05

Date



Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Praecept was served by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 18th day of Aug, 2005, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

8/18/05


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants : AFFIDAVIT OF
STEPHEN R. VOLPE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 38c AHJ
0/2/58 cm Belin
FEB 09 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
: JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

AFFIDAVIT

Stephen R. Volpe ("**Volpe**"), being duly sworn according to law, deposes and says that the following statement is true and correct to the best of his knowledge, information, and belief:

1. That I was the owner of Swift Kennedy & Associates, Inc. ("**SKA**"), and negotiated a contract to sell SKA to Helpmates, Inc. ("**Helpmates**") during February through April of 2002.

2. That I negotiated all the agreements comprising the sale with Scott Carlson, who was the President and Chief Executive Officer of Helpmates at the time.

3. That the agreements which comprise the sale of SKA to Helpmates consist of the following:

(a) Stock Purchase Agreement, dated March 26, 2002;

(b) First Addendum to Stock Purchase Agreement, dated the ___ day of April, 2002;

(c) Second Addendum to Stock Purchase Agreement, dated the 30th day of April, 2002; and

(d) Employment Agreement dated April 30, 2002.

HEALTH BENEFIT

4. That Scott Carlson and I negotiated a health insurance benefit which was a special benefit that my wife and I would be provided health insurance coverage from the date of closing until my wife and I would be eligible for Medicare.

5. That this benefit was not a normal benefit and was not provided to any other employee of SKA and was an essential part of the consideration for the sale.

6. That the agreement as to the health benefit was independent of the employment agreement and is contained on Exhibit "A" which was an independent agreement and which was executed by all parties.

7. That the health benefit was intended to survive any period of employment with SKA and was a benefit independent of my employment which was vested at the time of the execution of the agreement of sale.

8. That the health benefit was an essential part of the consideration for the sale and was bargained for as part of the

price so that this benefit was independent of the employment agreement.

PROPERTY AND CASUAL INSURANCE
REFERRAL COMMISSIONS

9. That the sale was a sale of SKA stock and was based upon the gross revenues derived from health insurance and the sale was based on a multiplier on the health insurance to arrive at the price set forth in the sales agreement.

10. That I was receiving commissions for casualty insurance to a sister corporation, Swift Kennedy & Company (sometimes referred to as Swift Kennedy Financial in the depositions), which were never included in the gross revenues set forth in SKA books.

11. That it was understood that my revenues were reported on separate 1099's and were never included in the SKA books and records.

12. That it was understood and agreed that the sale only applied to the health insurance revenues which were part of SKA's books.

STOCK/ASSET SALE

13. That the transaction was closed as a stock sale on April 30, 2002.

14. That after the sale had been completed, Mark Freemer, the accountant for Helpmates, called me and requested that I change the sale from one of a stock sale to an asset sale which would provide tax benefits to Helpmates and that Helpmates would pay any additional taxes resulting from the change in the form of the sale.

15. That after discussing the matter with my accountant, Larry Gabler, I agreed to change the form of the sale on the basis that Helpmates would pay any additional taxes incurred by me.

16. That following this agreement, the sale was changed from a stock sale to an asset sale but I have not been paid for the additional taxes that were incurred as a result of this change.

UNDISCLOSED LIABILITIES

17. That I have never had any discussion with the officers and employees of SKA and Helpmates regarding any additional liabilities discovered by Helpmates or SKA following the sale.

18. That following filing of the complaint, a claim was made by Helpmates for certain undisclosed liabilities as averred in the complaint.

19. That at no time have I ever received written or oral notice regarding the undisclosed liabilities from either Helpmates or SKA.

**BADMOUTHING, DISPARAGEMENT,
AND INTENTIONAL INTERFERENCE**

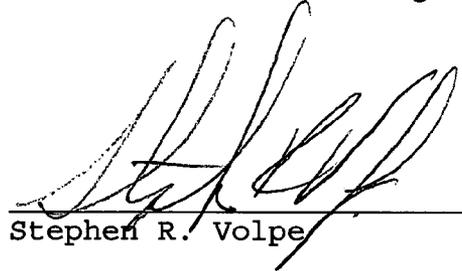
20. That I have not "badmouthed, disparaged, or intentionally interfered with prospective business advantage" regarding SKA or a potential client.

21. That I have done nothing to dissuade any of SKA's past clients or any prospective clients that they should not deal with SKA.

22. That I did tell my family and friends that I was having difficulties with the personnel of SKA and Helpmates regarding my contract and that as a result of these differences that litigation had been filed. Nothing else was discussed regarding the specifics of our differences and in none of the conversations did I ever suggested that anyone, even my family and friends, should not deal with SKA for their health insurance.

23. That I did attend a Blue Cross Golf outing at the invitation of the Blue Cross personnel and that before commencing golf that I told them that I was having some difficulty with SKA personnel regarding my contract and told

them that if they would prefer that I would leave the event. However, they asked me to stay and remain for the golf event. That was the only conversation with Blue Cross with regard to the present ownership of SKA.



Stephen R. Volpe

Sworn and Subscribed to before me this 9th day of February, 2006.

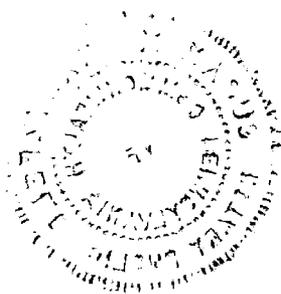


Notary Public

NOTARIAL SEAL
SUSAN M. HARTZFELD, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD CO.
MY COMMISSION EXPIRES AUG. 16, 2009



NOTARIAL SEAL
WILLIAM A. SHAW, Notary Public
Clerk of Courts, Jefferson Parish
My Commission Expires Aug. 18, 2009



FILED

FEB 09 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : CERTIFICATE OF
SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 2cc A44
03:00 cm Belin
FEB 09 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
: JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Motion of Plaintiff for Partial Summary Judgment, Exhibits in Support of Motion of Plaintiff for Partial Summary Judgment, and Affidavit of Stephen R. Volpe, in the above-captioned matter to the following party by postage prepaid United States first class mail on the 9th day of February, 2006:

Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
Plaintiff	:	
vs.	:	No. 03 - 1867 - CD
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	MOTION OF PLAINTIFF
Defendants	:	FOR PARTIAL SUMMARY
	:	JUDGMENT

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
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(814) 765-8972

FILED
01/25/06 cm
FEB 09 2006

*Atty
3cc Belin
CR*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

MOTION OF PLAINTIFF
FOR PARTIAL SUMMARY JUDGMENT

Plaintiff Stephen R. Volpe ("Volpe") by his undersigned counsel, respectfully moves Your Honorable Court, pursuant to Pa. R.C.P. No. 1035, for the entry of a partial summary judgment in the above-captioned case and in support thereof avers as follows:

1. The pleadings are closed and time exists within which to dispose of this motion without delaying trial.
2. The pleadings, interrogatories, and depositions filed of record show that there is no genuine issue of fact and Volpe is entitled to judgment as a matter of law as to the following issues.

3. This is an action filed by Volpe against Swift Kennedy & Associates, Inc. ("SKA") and Helpmates, Inc. ("Helpmates") that arises out of an agreement by Volpe to sell SKA to Helpmates.

4. That the Stock Purchase Agreement ("the contract") (Exhibit "1"), and Employment Agreement ("employment agreement") (Exhibit "2") were negotiated for Helpmates by Scott Carlson who was the CEO and President of Helpmates at the time: See Scott Carlson Deposition, Pages 5-6 (Exhibit "5"); 8-12 (Exhibit "6").

5. That the contract provided that the employment agreement was a condition of the sale as set forth in Paragraph 25 of the contract as amended in the second addendum to the stock purchase agreement (Exhibit "4").

HEALTH INSURANCE BENEFIT

6. That pursuant to the sales agreement, SKA employed Volpe pursuant to the employment agreement which included the benefit of health insurance coverage from the date of closing of the sale until Volpe and his wife became eligible for Medicare ("health insurance benefit"):

"Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue."

See Exhibit "2," Page 6.

7. That the health insurance benefit extended beyond the term of the employment and was intended to be a benefit separate and apart from Volpe's employment.

8. That the Schedule A was actually a separate agreement to provide the health benefits as it was signed and executed by the parties and at the top thereof appeared:

"Effective Date of this Agreement."

See Exhibit "2," Page 6.

9. That the health insurance benefit was placed in the employment agreement but was actually a part of the sales agreement ("**Scott Carlson Deposition**"):

"Q. Then if you notice benefits, it talks about normal health benefits be maintained until the employee's spouse reaches an age which would qualify them for Medicare.

A. Correct.

Q. Now, that's actually going to extend beyond the five-year period.

A. That particular piece, yes.

Q. And was that an essential part of the sales agreement, that you would continue to cover Steve and his wife until they reached Medicare age?

A. Very much so. And I saw a couple of other deals between other people in other corporations and I have seen that in there before.

Q. So what are you saying here is that this particular benefit is not a typical benefit for employment agreements, is it - if you know?

A. Not for the employment agreement. I think this would more fall under a - the umbrella of helping the entire deal get done which would make it fall under probably the -

Q. Sales agreement?

A. -- sales agreement.

Q. So in your mind the reason for this is that Steve was insisting that he and his wife be covered by health insurance until - right now it's 65 for Medicare, but that was a part of the actual sales agreement; is that correct?

A. Would fall under that umbrella."

Scott Carlson Deposition, Page 28 Line 12 to Page 29 Line 15
(Exhibit "7").

10. That the health insurance benefit was a "vested benefit" which was not dependent on Volpe's employment: see Paragraph 18 of the employment agreement which provides:

"18. In the event of Employee's death or disability, Corporation shall nevertheless be obligated to maintain health insurance covering Employee and Employee's spouse as set forth in Schedule A. Employee or Employee's spouse may continue to have exclusive twenty four (24) hour use of a 200 Honda Accord and on May 1, 2004, Employee or Employee's spouse may purchase said 200 Honda Accord from the Corporation for One (1.00) Dollar."

See Exhibit "2", Page 5.

11. That this benefit was not provided to any other officer or employee of SKA.

12. That Volpe's termination by SKA and Helpmates did not divest Volpe of the health insurance benefit; as a result Volpe is entitled to the health insurance benefit as a matter of law and the valuation of that benefit will be determined at trial.

13. That the health benefit agreed to is as follows as found in Page 6 of the employment agreement:

"Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue."

See Exhibit "2," Page 6.

14. That the actual amount due shall be determined at trial.

WHEREFORE, Volpe seeks a partial summary judgment that SKA is liable to Volpe for the health benefits as set forth as described above.

PROPERTY AND CASUALTY INSURANCE
REFERRAL COMMISSIONS

15. That the sale of SKA involved only health care insurance commissions.

16. That Volpe, prior to the sale, had made referrals to another company, Swift Kennedy & Company (sometimes mistakenly referred to as Swift Kennedy Financial in the depositions) which was in the property and casualty business.

17. That an agreement existed that Volpe would receive commissions for all referrals for property casualty business to Swift Kennedy & Company.

18. That the referral commissions were not a part of the sale and SKA was liable to Volpe for all commissions received from Swift Hopkins ("**Rodney Moline Deposition**"):

Q. Were you familiar with the issue regarding the Swift Kennedy Financial property and casualty commissions?

A. Commission structures?

Q. Yes. In other words, were you familiar with the fact that Swift Kennedy Financial, which is a property casualty company, had received certain leads or whatever from Mr. Volpe as a result of which commissions were being earned?

A. Yes, I am assuming that. I would assume so, with the relationship he had with them, yes.

Q. Were you aware of the fact that the sales agreement purportedly only applied to health insurance commissions?

A. Yes.

Q. And that as a result of that, that these property and casualty which were paid over to Swift Kennedy and Associates, actually belonged to Steve Volpe?

A. Okay, yes.

Q. Were you aware of that?

A. Yeah. At first I wasn't.

Q. But you became aware of that; did you not?

A. Yes.

Q. And were you aware of the fact that Mr. Volpe had a claim for these commissions from the time - - I guess it would be like May of '02 through the time they were paid? Were you aware of that?

A. That's the issue - - we had a couple different issues on commission. But yeah, I was aware there was a problem with the commissions.

Q. Were you aware that, in fact, Helpmates, or Swift Kennedy, whichever the case may be, indeed was indebted to Steve for the payment of these commissions?

A. Yeah.

Q. Were they ever paid?

A. I don't recall. I know there was - - I am getting this kind of confused with the balance of what was owed to Steve after the sale. I can't answer that. I don't know they were paid or not. I don't recollect.

(Marked Moline Exhibit 5.)

BY MR. BELIN:

Q. Mr. Moline, I show you Moline 5 and ask you if you would have seen that.

A. (Examining). I do remember this, yes.

Q. Now, obviously, if you look to the last paragraph, if you read that, obviously, that the commissions owed Steve would have only been those that he referred to Swift Kennedy Financial; is that correct?

A. (Witness nods head affirmatively.)

Q. And there is a suggestion here from Jerry in this thing that there was a referral by someone else. Do you know who that someone else was?

A. Where do you see that, sir?

Q. Look to the last full paragraph, if you will.

A. Okay. I have no idea who that was.

Q. Don't know?

A. No.

Q. To your knowledge, then, this account, the balance due, whatever that balance might be, was never paid to Steve?

A. To my knowledge, I can't honestly say yes or no.

Q. You don't know?

A. I am not sure. I don't believe it was, sir."

See deposition of Rodney Moline, CEO of Helpmates, Page 18 Line 22 to Page 21 Line 16 (**Exhibit "8"**), admitting SKA's liability for such premiums.

19. That the actual amount due shall be determined at trial.

WHEREFORE Volpe seeks a partial summary judgment that SKA is liable to Volpe for referral commissions made by him and payable from Swift Kennedy & Company from the date of closing, May 1, 2002, to the present day.

STOCK/ASSET SALE

20. The contract provided that the sale was to be a "stock sale" wherein the consideration was to be paid to Volpe for the sale of all his capital stock in the corporation: See Exhibit "1," Page 1-2, Paragraphs 1 and 3 of the contract.

21. That after the closing was held the accountant for Helpmates suggested the form of the sale be changed to an "asset sale" to provide additional tax benefits to the buyer.

22. The parties orally agreed to change the form of the agreement to provide that the sale would be changed to an "asset sale" in consideration of Helpmates paying all the

additional taxes incurred by Volpe as a result of the change.

As testified to by Moline:

Q. Now, in the second sentence, it does suggest that the stock-to-asset sale involved an additional amount?

A. Correct.

Q. Now, were you familiar with or did you learn of the basis for that account?

A. Yes.

Q. Would you tell me what it was that generated an amount owing to Steve in that respect?

A. It had to do with his income tax, and acceleration to claim, the sale of the business, I believe.

Q. In other words - -

A. Or the tax consequences.

Q. - - when Helpmates originally bought the business, it was a stock sale?

A. Yes.

Q. Which would be, from a tax point of view, disadvantageous to Helpmates?

A. Yes.

Q. And Steve changed it to an asset sale?

A. Yes.

Q. Which was more advantageous to Helpmates?

A. Yes.

Q. And as a result, there was additional income tax incurred by Steve?

A. Yes.

Q. What you were going to do was pay him for that was involved in that change?

A. Yes."

Rodney Moline Deposition Page 50 Line 16 - Page 51 Line 20 (**Exhibit "9"**). See also letter from Rodney Moline: Exhibit 8 in his deposition (**"Exhibit "10"**).

23. That the actual amount due will be determined at trial.

WHEREFORE, Volpe seeks a partial summary judgment that SKA is liable to Volpe for the additional taxes paid by him for the change of the sale from a "stock sale" to an "asset sale."

UNDISCLOSED LIABILITIES

24. SKA and Helpmates in their answer, new matter and counterclaim, allege in Paragraphs 89-93 that Volpe did not disclose all his liabilities to SKA and Helpmates as required by Paragraph 5.8 of the Agreement:

"89. The Stock Purchase Agreement required that Volpe fully disclose all liabilities of SKA prior to the closing of the transaction.

90. Volpe failed to disclose to HI all liabilities of SKA prior to closing of the transaction.

91. As a result of Volpe's failure to disclose all liabilities of SKA prior to the closing of the transaction, HI has been required to incur expenses and pay amounts that it should not have been required to pay.

92. The Stock Purchase Agreement contains an obligation on Volpe's part to indemnify HI for all undisclosed liabilities.

93. As a result of the expenses incurred by HI resulting from Volpe's failure to disclose all liabilities, HI is entitled to indemnification from Volpe."

25. That Paragraph 5.8 of the contract provides:

"Absence of Undisclosed Liabilities. Except as disclosed on Exhibit B, the Company has no liabilities or obligations (whether absolute, accrued, contingent or otherwise). In the event any liability arises after the Closing of the transaction contemplated in this Agreement which was not disclosed on Exhibit B, which liability the Company and/or the Buyer become obligated to satisfy, the Buyer shall be entitled to offset from any amounts due the Seller the amount of such obligation actually paid by the Buyer and/or the

Company. The right of offset shall apply to amounts due and payable for the Shares, as well as amounts due and payable for normal ongoing salary and/or commission payments to the Seller provided Buyer shall immediately notify Seller of said undisclosed liabilities within ten days of learning of said liabilities. Buyer's failure to notify Seller within ten days of learning of said liabilities shall bar Buyer Buyer's right to recover from Seller for undisclosed liabilities."

Exhibit "1," Page 5.

26. In interrogatories submitted by Volpe,

Interrogatory 13 sought the following:

"13. State the basis for claiming Volpe had an obligation to disclose all liabilities prior to closing and include a reference to a particular paragraph of the sales contract which supports the basis for such assertion.

(a) As to each liability claimed under Paragraph 90 of the answer, list the date SKA or HI learned of the liability.

(b) Identify all persons of SKA or HI that have any knowledge of the liability.

(c) As to each person identified in subparagraph (b):

(i) list their name, address, telephone number, relationship to SKA or HI;

(ii) describe, in summary form, each witnesses' knowledge of the liability not disclosed prior to closing;

(iii) state whether any witnesses prepared any written memoranda as to any matter relating to the liability not disclosed prior to the closing; and

(iv) if the answer to subparagraph (iii) is yes, attach a copy of the memorandum to the answers to these Interrogatories.

(d) Identify and attach any documents to these answers that support the claim as to the liability(ies) not disclosed prior to the closing."

In answer thereto, SKA and Helpmates answered as follows:

"13. Pursuant to Section 5.8 of the Stock Purchase Agreement, Volpe had a duty to disclose liabilities prior to closing. Other paragraphs of the Agreement also require certain specific disclosures.

(a) the exact dates upon which SKA and/or HI learned of undisclosed liabilities are unknown.

(b) Calsitri, Moline.

(c) Through time and dealings with the companies, Calistri and Moline have learned that certain information was not disclosed prior to closing that resulted in costs to the company, and prior records were incomplete."

27. In the depositions, Rodney Moline identified two (2) undisclosed liabilities: Douglas Greenheisen and Swift Kennedy Financial. See Moline Depositions, Page 38 Line 12 to Page 41 Line 18 ("Exhibit "11"). Moline testified no notice was given to Volpe as to either liability in accordance with the contract:

"Q. My understanding is that in your Answer to New Matter and Counterclaim, you suggested that there were certain undisclosed liabilities that Volpe had at the time of the sale which were not disclosed to you people, as a result of which you encountered some damages. I am summarizing that. Is that correct?

A. Yes.

Q. I want to ask you something, sir. The basis for this liability would be Paragraph 5.8 of the contract; isn't that right?

A. Uh-huh, yes.

Q. If you go down, if you will, for me and just read to yourself the second to the last paragraph which gives you the right of offset. Do you know where it starts, The right of offset shall apply?

A. Yes, sir, I do, okay.

Q. Read that entire sentence to yourself.

A. Okay.

Q. I am going to ask you, also, if you will, to refer to Paragraph 19 which is found on page 17.

A. All right.

Q. Just read the lead-in to that regarding notice.

A. (Examining). Okay.

Q. Now, sir, to your knowledge, was any notice ever given, in accordance with this contract, of undisclosed liabilities to Volpe and his attorney?

A. I didn't."

Rodney Moline Deposition Page 17 Line 15 to Page 18 Line 17 ("Exhibit "12"). See also deposition of James Calistri Page 83 Line 11 to Page 86 Line 11 ("Exhibit "13"):

"Q. In there, there is a suggestion that Volpe had failed to disclose certain liabilities. Were you aware of that, or did you participate in that?

A. Yes, I did.

Q. Who were those undisclosed liabilities, if you will?

A. I think the first one was an issue that had taken place shortly after the purchase. His name was Doug Greenheisen. Doug and Steve had an agreement - - a verbal, nothing in writing - - that Steve was going to purchase his book of business; that Doug was not interested in selling in

that area; that he was moving to Maryland or somewhere down south. We had to - -

Q. You found out that apparently with Greenheisen shortly after the sale, right?

A. Shortly after the sale.

Q. That would have been like in '02 maybe?

A. I am not sure of the specific date, but shortly after the sale.

Q. Were you aware that in the sale that there was a paragraph that dealt with undisclosed liabilities? I ask you to pick up JC-1 again and look. Let me address you to where that appears in the agreement. If you will look on page 5.8, if you look at the last two sentences, it gives Swift Kennedy, the right to offset?

A. Okay.

Q. Do you notice there it says that provided buyer - - meaning the new Swift Kennedy or Helpmates - - immediately notify seller of undisclosed liabilities within ten days of learning, and the failure to modify [sic] would bar - - if you go back to Paragraph 19 on page 17.

A. Okay.

Q. If you will read there, it says that the notices under this contract have to be given in writing by registered, certified or overnight mail, addressed to the various parties shown here.

Were any notices ever given regarding Greenheisen under the contract?

A. From my end, no. I don't recall providing that.

Q. Now, what was the other undisclosed liability other than Greenheisen, if you know?

A. The other undisclosed liability was James Curtis, the president of Swift Kennedy Financial. There was a commission issue that was ongoing with commissions that were back and forth between the two companies.

Q. I am not going to mark this as an exhibit. Let me just show you a letter and ask you: Is this dealing with apparently an ongoing issue regarding commissions?

A. That's correct.

Q. That letter is May 14 of '04, correct?

A. Correct.

Q. This letter suggests, at least in the first paragraph, that there had been ongoing discussions about this?

A. Yeah. Between Swift Kennedy & Associates and Swift Kennedy Financial, it was always - - it was an ongoing - -

Q. This was an ongoing thing all the time?

A. Yeah.

Q. At any time at any point was Volpe given notice under the contract that you people considered this an undisclosed liability?

A. This I supplied to the attorney at this point. This is in May. I did not send this over to Steve, no.

Q. What I am saying, was Steve ever given notice of this under the - -

A. Not through me.

Q. - - requirements of the contract?

A. Not through me."

WHEREFORE, Volpe seeks a partial summary judgment that SKA is barred from seeking to recover any undisclosed liabilities in this case.

**BADMOUTHING, DISPARAGEMENT,
AND INTENTIONAL INTERFERENCE**

28. SKA and Helpmates in their answer, new matter and counterclaim, seek to recover damages from Volpe for "badmouthing, disparagement, and intentional interference with prospective business advantage" in Paragraphs 82-87 and 118-121.

29. That neither the contract nor the employment agreement contained a provision relating to "badmouthing,

disparagement, and intentional interference with prospective business advantage."

30. In interrogatories submitted by Volpe, Interrogatory 7 and 8 sought the following:

"7. State the basis and describe the 'badmouthing' of Volpe referred to in Paragraphs 70, 86, 87, and 119 of the answer.

(a) Identify all persons of SKA or HI that have any knowledge of the 'badmouthing.'

. . .

8. State the basis and describe the 'sabotaging' of major insurance accounts by Volpe referred to in Paragraphs 70, 86, and 87 of the Answer.

(a) Identify all persons of SKA or HI that have any knowledge of the 'sabotaging.'

. . .

9. State the basis and describe the "false and negative information" communicated by Volpe in Paragraphs 84, 86 and 119 of the answer.

(a). Identify all persons of SKA or HI that have any knowledge of the 'false and negative information.'

. . .

10. State the basis and describe the 'intentional interference with the prospective business advantage' of SKA by Volpe described in Paragraphs 84 and 87 of the answer.

(a) Identify all persons of SKA or HI that have any knowledge of the 'intentional interference with the prospective business advantage' of SKA by Volpe."

In answer thereto, SKA and Helpmates identified the following persons who had knowledge of the badmouthing, disparagement, and intentional interference, as follows:

"7(a). Tammy Jewell;
Sandy Gordon;
Linda Barnacastle;
Jerry Calistri; and,
Rodney Moline."

In further answer thereto, the answers identified the same persons:

"8(a). See response to Interrogatory No 7 above.

9(a). See Defendant's responses to Interrogatories No. 7 and 8 above.

10(a). See Defendant's responses to Interrogatories No. 7 and 8 above."

31. Volpe has deposed all of the foregoing persons identified in the interrogatories. In their depositions, Moline

testified he had no personal knowledge of "bad mouthing," "disparagement" and false statements" that his knowledge came from Calistri. See Moline Deposition, Pages 21 Line 18 to Page 23 Line 5 ("Exhibit "14") and Page 23 Lines 20-24 ("Exhibit "15"). Calistri testified that he had conversations with three clients but that none of the incidents involved "bad mouthing." Calistri Deposition Pages 63 Line 7 to Page 68 Line 12 ("Exhibit 16"). He also indicated this was the only personal knowledge he had. Tammy Jewel was deposed and indicated she had no personal knowledge that Volpe had "badmouthed," "disparaged," or "made false statements" causing SKA damage. See Jewell deposition, Page 30 Line 4 to Page 37 Line 17 (Exhibit "17"). See also Page 41 Line 23 to Page 43 Line 6 (Exhibit "18"); Page 43 Line 17 to Page 50 Line 6 (Exhibit "19"); Page 52 Line 4 to Page 52 Line 25 ("Exhibit "20"); Page 54 Line 9 to 15 (Exhibit "21"); Page 55 Line 16 to Page 56 Line 1 (Exhibit "22"). Sandy Gordon was deposed later and she denied any knowledge of Volpe "bad mouthing," "intentionally interfering." See Gordon Deposition Page 24 Line 2 to Line 24 (Exhibit "23"); Page 29 Line 18 to 21 ("Exhibit "24"). Linda Barnacastle was deposed at the same

time and she also denied having any knowledge of Volpe "badmouthing," "disparaging" or providing "false information" about SKA. See Barnacastle deposition, Page 16 Line 21 to Page 18 Line 16 (**Exhibit "25"**); Page 29 Line 21 to 24 ("**Exhibit "26"**").

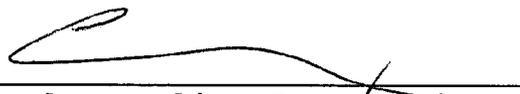
32. That none of the witnesses testified that they had personal knowledge of Volpe "bad mouthing," "disparaging" or making "false statements" about SKA or that he had "sabotaged" any insurance accounts of SKA.

33. As a result, no evidence existed that Volpe was guilty of the alleged conduct set forth in Paragraphs 82-87 and 118-121.

WHEREFORE, Volpe seeks a partial summary judgment that Volpe did not "bad mouth," "disparage," issue "false statements" or "sabotage" any insurance contracts of SKA.

RESPECTFULLY SUBMITTED,

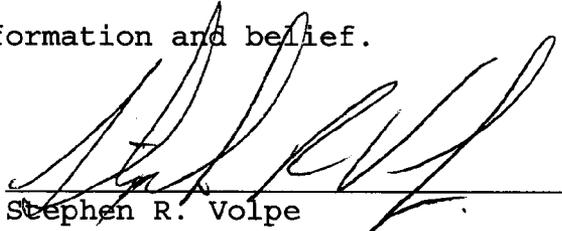
BELIN & KUBISTA

By 

Carl A. Belin, Jr., ~~Esquire~~

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared
STEPHEN R. VOLPE, being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Motion of
Plaintiff for Partial Summary Judgment are true and correct to
the best of his knowledge, information and belief.



Stephen R. Volpe

Sworn and subscribed before me this 9th day of
February, 2006.



Notary Public

NOTARIAL SEAL
SUSAN M. HARTZFELD, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD CO.
MY COMMISSION EXPIRES AUG. 16, 2009



2006 FEB 09 10 30 AM
CLERK OF COURTS
STATE OF TENNESSEE
MEMPHIS, TENNESSEE



FILED

FEB 09 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE	:	
Plaintiff	:	
vs.	:	No. 03 - 1867 - CD
	:	JURY TRIAL DEMANDED
SWIFT, KENNEDY & ASSOCIATES, INC.	:	LIST OF EXHIBITS IN
AND HELPMATES, INC.,	:	SUPPORT OF MOTION OF
Defendants	:	PLAINTIFF FOR PARTIAL
	:	SUMMARY JUDGMENT

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

o/p: sscm

FEB 09 2006

acc Atty Belin

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

LIST OF EXHIBITS IN SUPPORT
OF MOTION OF PLAINTIFF FOR PARTIAL SUMMARY JUDGMENT

1. Stock Purchase Agreement
2. Employment Agreement
3. First Addendum
4. Second Addendum
5. Scott Carlson deposition P 5-6
6. Scott Carlson deposition P 8-12
7. Scott Carlson deposition P 28 L 12 - P 29 L 15
8. Rodney Moline deposition P 18 L 22 - P 21 L 16
9. Rodney Moline deposition P 50 L 16 - P 51 L 20
10. Rodney Moline deposition Exhibit 8 (letter)
11. Rodney Moline deposition P 38 L 12 - P 41 L 18
12. Rodney Moline deposition P 17 L 15 - P 18 L 17
13. James Calistri deposition P 83 L 11 - P 86 L 11
14. Rodney Moline deposition P 21 L 17 - P 23 L 5
15. Rodney Moline deposition P 23 L 20-24
16. James Calistri deposition P 63 L 7 - P 68 L 12
17. Tammy Jewell deposition P 30 L 4 - p 37 L 17
18. Tammy Jewell deposition P 41 L 23 - P 43 L 6
19. Tammy Jewell deposition P 43 L 17 - P 50 L 6
20. Tammy Jewell deposition P 52 L 4 - P 52 L 25
21. Tammy Jewell deposition P 54 L 9-15
22. Tammy Jewell deposition P 55 L 16 - P 56 L 1
23. Sandy Gordon deposition P 24 L 2-24
24. Sandy Gordon deposition P 29 L 18-21
25. Linda Barnacastle deposition P 16 L 21 - P 18 L 16
26. Linda Barnacastle deposition P 29 L 21-24
27. Linda Barnacastle deposition P 20 L 15 - P 21 L 6

STOCK PURCHASE AGREEMENT

THIS AGREEMENT, is made as of the 26th day of March, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, constituting the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

WITNESSETH:

WHEREAS, the Company is engaged in the business of insurance brokerage (the "Business"); and

WHEREAS, Seller is the owner of One Hundred (100) shares of common stock, no par value, of the Company, constituting all of the issued and outstanding shares of capital stock of the Company (hereinafter referred to as the "Shares"); and

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Shares on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

Section 1. Sale and Purchase of Shares

1.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, on the Closing Date (as hereinafter defined), Seller will sell, transfer, convey and assign to Buyer, and Buyer will purchase from Seller, all of the issued and outstanding shares of capital stock of the Company on the Closing Date, all of which are, and on the Closing Date will be, free and clear of any and all liens, claims, charges, pledges, security interests or other encumbrances of any nature whatsoever ("Liens").

Section 2. Closing; Closing Date.

2.1. The Closing hereunder (the "Closing") shall take place at 10:00 a.m. at the Hopkins Law Firm on May 1, 2002, or as soon as practicable thereafter after Seller's "Rights of First Refusals" have ended or on such other date as the parties may mutually agree (the "Closing Date"). The parties agree that the Seller's "Rights of First Refusals" must be removed or ended no later than ninety (90) days after execution of this Agreement. If the "Rights of First Refusals" have not been removed or waived within ninety (90) days, Buyer or Seller may terminate this Agreement. At the Closing, Seller shall deliver to Buyer certificates representing the Shares, each certificate to be duly endorsed in blank or with stock powers annexed thereto duly executed in blank, in proper form for transfer of the Shares to Buyer upon delivery.

Section 3. Purchase Price.

3.1. The purchase price for the Shares shall be One Million Six Hundred Eighty Thousand Dollars (\$1,680,000.00). The Purchase Price shall be payable as follows: One Million Two Hundred Thousand Dollars (\$1,200,000.00) payable by certified or official bank checks or by a wire transfer in such manner (and in the case of a wire transfer, to a single bank account) as Seller shall designate to Buyer and a Promissory Note in the amount of Four Hundred Eighty Thousand Dollars (\$480,000.00) executed by Buyer and duly delivered at Closing, which Promissory Note shall be substantially in the same form as attached hereto as Exhibit A. The purchase price shall be allocated One Million Five Hundred Eighty Thousand Dollars (\$1,580,000.00) towards the purchase of the Company's capital shares and One Hundred Thousand Dollars (\$100,000.00) towards the noncompetition agreements set forth in Section 4.

3.2. In addition to the purchase price, Seller shall be entitled to receive premiums earned but not yet paid to the Closing Date.

3.3. As security for the unpaid balance, the Buyer does hereby pledge and hypothecate all of the corporate stock of the Company to the Seller. Upon payment of the Promissory Note, Seller shall return the corporate stock of the Company to Buyer.

Section 4. Trade Secrets; Noncompetition.

4.1. Confidentially. Seller shall not at any time hereafter use for his own benefit, or divulge to any other person, firm or corporation, any confidential information or trade secrets which the Company, may have imparted to him, and upon the consummation of the transactions contemplated hereby, he will deliver to the Company all lists of customers, books, records and all other property constituting confidential information belonging to the Company; provided, however, that the restrictions of this Section 4.1 shall not extend to any confidential information which, at the time such information was disclosed by Seller was in the public domain or thereafter entered the public domain other than through disclosure by Seller or was or becomes readily ascertainable from public sources. If at any time Seller is requested or required (by oral questions, interrogatories,

requests for information or documents, subpoenas or similar legal process) to disclose any such information, he (to the extent reasonably practical) shall notify Buyer immediately and shall refrain from making such disclosure so that Buyer may, at its own expense, seek an appropriate protective order and/or waive compliance with the provisions hereof. If, in the absence of a protective order or the receipt of a waiver hereunder, in the reasonable opinion of the Seller's counsel, he is compelled to disclose such information to any tribunal or any governmental agency to avoid being liable for contempt or suffering any other penalty, Seller may disclose such information to such tribunal or agency without liability hereunder; provided, however, that he gives Buyer prompt notice of such decision. Seller shall use his best efforts to prevent the respective directors and officers of such entities from violating the provisions of this Section 4.1. For the purposes hereof, the term "confidential information" means information of or related to the customer and marketing relationships of the Business, and business and financial information of the Business.

4.2. Non-Competition. No Seller shall, for a period of five (5) years following the Closing Date, in any manner directly or indirectly, engage in any business which competes with the activities in which the Company is presently engaged and no Seller will directly or indirectly own, manage, operate, join, control or participate in the ownership, management, operation or control of, or be employed by, or connected in any manner with, any person, corporation, firm or business that is so engaged; provided, however, that nothing herein contained shall prohibit any Seller from owning not more than 5% of the outstanding stock of any publicly held corporation.

4.3. Non-Solicitation. No Seller shall, at any time during the period of five (5) years following the Closing Date, solicit, employ or retain, or otherwise participate in the employment or retention of, in any capacity, any employee or consultant (where, if such consultant were so employed or retained, Buyer or the Company would be put at a competitive disadvantage) currently paid by, retained, or under agreement with the Company.

4.4. Specific Performance. Seller acknowledge that a violation of the foregoing covenants of this Section 4 may cause irreparable injury to the Company and Buyer and that the Company and Buyer will be entitled, in addition to any other rights and remedies they may have, to injunctive relief from any court of competent jurisdiction without the need of posting any bond or other security.

4.5. Saving Clause. In the event the covenants contained in this Section 4 should be held by any court or other constituted legal authority to be void or otherwise unenforceable in any particular jurisdiction or with respect to any particular activity, then Seller and Buyer shall consider this Section 4 to be amended and modified so as to eliminate therefrom that particular jurisdiction or activity as to which such covenants are so held to be void or otherwise unenforceable, and, as to all other jurisdictions and activities covered hereby, the terms and provisions hereof shall remain in full force and effect. Seller acknowledge that the amount to be paid to Seller by Buyer for the covenants set forth in this Section 4

on the Closing Date pursuant to the terms of Section 3 hereof is fair and reasonable and constitutes good and valid consideration for such covenants.

Section 5. Representations and Warranties of Seller.

Seller represents and warrants to Buyer as follows:

5.1. Organization. The Company is a corporation duly organized, validly existing and in good standing under the laws of Pennsylvania and has all requisite corporate power and authority and all necessary licenses and permits to carry on the Business as it has been and is now being conducted. The Company is duly qualified or licensed and in good standing to conduct the Business in the Commonwealth of Pennsylvania and in any other jurisdictions in which it conducts any portion of the Business.

5.2. Capitalization. The total authorized shares of the Company consists of Ten Thousand (10,000) shares of common stock, no par value, of which only One Hundred (100) Shares are issued and outstanding. All of the Shares have been duly and validly authorized and issued and are fully paid, nonassessable and free of preemptive rights with no liability attaching to the ownership thereof.

5.3. Options. There are no existing agreements, subscriptions, options, warrants, calls, commitments, trusts (voting or otherwise), or rights of any kind whatsoever.

5.4. Title to the Shares. Seller is the lawful record holder of and the beneficial owner of all of the issued shares, and Seller has good and marketable title to all of the issued shares. The Shares are owned by Seller free and clear of any and all Liens, and there are no existing agreements, subscriptions, options, warrants, calls, commitments, trusts (voting or otherwise), or rights of any kind whatsoever granting to any person or entity any interest in or the right to purchase or otherwise acquire any of the Shares from any Seller at any time, or upon the happening of any stated event except that Swift Kennedy Financial Company, Inc. and Matthew T. Ruttinger possess a right of first refusal to purchase Company.

5.4.1. Power and Capacity. Seller has full right, power and capacity to execute, deliver and perform this Agreement, to sell, transfer and deliver the Shares owned by Seller to Buyer hereunder and to perform all other transactions contemplated to be performed by Seller hereunder. This Agreement is a valid and binding obligation of Seller enforceable in accordance with its terms.

5.5. Freedom to Contract. The execution and delivery of this Agreement by Seller does not, and the performance by Seller of Seller's obligations hereunder will not, (a) violate or conflict with any provision applicable to the Shares or Articles of Incorporation or Bylaws of the Company, (b) violate any of the terms, conditions or provisions of any law, rule, regulation, order, writ, injunction, judgment or decree of any court, governmental authority, or regulatory agency, or (c) result in a violation or breach of, or constitute (with or without the giving of notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration) under, any of the terms,

conditions or provisions of any note, bond, indenture, debenture, security agreement, trust agreement, lien, mortgage, lease, agreement, license, franchise, permit, guaranty, joint venture agreement, brokerage or agency contract, or other agreement, instrument or obligation, oral or written, to which Seller or the Company is a party (whether as an original party or as an assignee or successor).

5.6. Charter and Organizational Documents. Seller has previously furnished Buyer with true and complete copies of the Certificates or Articles of Incorporation and Bylaws of the Company, as amended and currently in effect.

5.7. Financial Statements.

5.7.1. Buyer's and Company's accountants have met and disclosed such information to Buyer's satisfaction.

5.7.2. The Company's tax returns have been prepared pursuant to the tax basis of accounting applied on a basis consistent with that of preceding accounting period.

5.8. Absence of Undisclosed Liabilities. Except as disclosed on Exhibit B, the Company has no liabilities or obligations (whether absolute, accrued, contingent or otherwise). In the event any liability arises after the Closing of the transaction contemplated in this Agreement which was not disclosed on Exhibit B, which liability the Company and/or the Buyer becomes obligated to satisfy, the Buyer shall be entitled to offset from any amounts due the Seller the amount of such obligation actually paid by the Buyer and/or the Company. The right of offset shall apply to amounts due and payable for the Shares, as well as amounts due and payable for normal ongoing salary and/or commission payments to the Seller provided Buyer shall immediately notify Seller of said undisclosed liabilities within ten days of learning of said liabilities. Buyer's failure to notify Seller within ten days of learning of said liabilities shall bar Buyer's right to recover from Seller for undisclosed liabilities.

5.9. Machinery and Equipment. Exhibit C is a correct and complete list of each material item of equipment owned by the Company. All items listed on Exhibit C are in good operating condition and repair, subject to normal wear and use, and are usable in the ordinary course of business conducted by the Company.

5.10. Contracts. Exhibit D lists each and every contract to which the Company is a party, other than contracts and commitments listed in some other Exhibit hereto;

5.11. Absence of Default. Company has complied with and performed all of its respective obligations required to be performed under all material contracts, agreements and leases to which it is a party (whether as an original party or as an assignee or successor) as of the date hereof, and are not in default in any material respect under any contract, agreement, lease, undertaking, commitment or other obligation; and no event has occurred which, with or without the giving of notice, lapse of time or both, would constitute a default thereunder in any material respect. Seller, after due inquiry of the

Company, has no knowledge that any party has failed to comply with or perform any of its obligations required to be performed under any material contract, agreement or lease to which the Company (whether as an original party or as an assignee or successor) as of the date hereof, that any event has occurred which, with or without the giving of notice, lapse of time or both, would constitute a default by such party thereunder. In addition, Seller, after due inquiry of the Company, has no knowledge of any facts or circumstances which make a default to any material contract or obligation likely to occur subsequent to the date hereof.

5.12. Insurance. The Company maintains insurance coverage on its respective motor vehicles with respect to their employees and operations, covering risks that are prudently insured against by similar businesses.

5.13. Litigation. There are no actions, suits, labor disputes or arbitrations, legal or administrative proceedings or investigations pending against the Company, and to the best knowledge of Seller, after due inquiry of the Company, no actions, suits, material labor disputes or arbitrations, legal or administrative proceedings or investigations are contemplated or threatened against the Company. Company nor the assets, properties or business of Company, is subject to any judgment, order, writ, injunction or decree of any court, governmental agency or arbitration tribunal.

5.14. Tax Matters.

5.14.1. The Company has filed or will file all required Federal state, county, local, foreign and other tax returns and reports including without limitation income tax, estimated tax, whether or not measured in whole or in part by net income, within the prescribed period or any extension thereof for all periods prior to the Closing Date.

5.14.2. Neither the Seller nor the Company is a party to any pending action by any governmental authority for assessment or collection of taxes, or party to any dispute or threatened dispute in which an adverse determination would have a material adverse effect on the Business, operations, properties, or financial condition of the Company and no claim for assessment or collection of taxes has been made upon the Company nor is there any basis for such action or claim.

5.15. Employee Retirement Income Security Act (ERISA). Company maintains a "Defined Benefit Plan" within the meaning of the Code or ERISA. Company will, at Seller's request, terminate the plan and the plan assets shall be the property of Seller. Neither Company nor Buyer shall have any rights to the assets of the plan. Buyer and the Company shall follow the directions of Seller in regard to the termination of the plan. Seller shall be liable for any income tax liability as a result of the termination of the plan unless caused by Buyer or Company's negligence and agrees to fully indemnify Company and Buyer from any and all claims, demands, judgments, taxes, penalties, and any other expenses of whatever nature (including reasonable attorney's, accountant's, and actuary's fees) resulting from termination of the Plan. Seller represents that Seller is the

only participant in the plan and Seller is the only person entitled to any benefit from the plan.

5.16. Full Disclosure. No representation or warranty by Seller in this Agreement, any Exhibit or Schedule hereto contains any untrue statement of a material fact or omits to state any material fact necessary to make any statement herein or therein, in the light of the circumstances under which it was made, not misleading. Except as described in the Exhibits or Schedules hereto or to be delivered, all documents and agreements described in such Exhibits or Schedules are valid and effective in accordance with their respective terms.

5.17. 2002 Taxes. For tax year 2002, Company, Buyer and Seller shall elect to use the "specific accounting election" (also known as the "election to use normal accounting rules" and the "election to treat the tax year as if it consisted of two (2) tax years") as set forth in the Internal Revenue Code of 1986, as amended, Section 1377(a)(2). The Company shall not issue a K-1 to Seller that exceeds the profits of the Company as of the Closing Date.

Section 6. Representations and Warranties of Buyer.

Buyer represents and warrants to Seller as follows:

6.1. Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby to be performed by it.

6.2. Authorization. The execution and delivery by Buyer of this Agreement, and the performance by it of its obligations hereunder, have been duly authorized by all necessary corporate actions of Buyer.

6.3. Freedom to Contract. The execution and delivery of this Agreement by Buyer does not, and the performance by it of its obligation hereunder will not, (a) violate or conflict with any provision of the certificate of incorporation or bylaws of the Buyer or any amendments thereto or restatements thereof, (b) violate any of the terms, conditions or provisions of any law, rule, regulation, order, writ, injunction, judgment or decree of any court, governmental authority, or regulatory agency, or (c) result in a violation or breach of, or constitute (with or without the giving of notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration) under, any of the terms, conditions or provisions of any note, bond, indenture, debenture, security agreement, trust agreement, lien, mortgage, lease, agreement, license, franchise, permit, guaranty, joint venture agreement, or other agreement, instrument or obligation, oral or written, to which Buyer is a party (whether as an original party or as an assignee or successor) or by which it or any of its properties is bound. Buyer knows of no governmental department, commission, authority, board, bureau, agency or other instrumentality, which is required to give approval in connection with Buyer's execution,

delivery and performance of this agreement and the consummation of the transactions required hereby.

6.4. Litigation.

6.4.1. Buyer is not a party to any suit, action, arbitration or legal, administrative, governmental or other proceeding or investigation pending or, to the best knowledge of Buyer threatened, which might adversely affect or restrict the ability of Buyer to consummate the transactions contemplated by this Agreement or to perform its obligations hereunder.

6.4.2. There is no judgment, order, injunction or decree of any court, governmental authority or regulatory agency to which Buyer is subject which might adversely affect or restrict the ability of Buyer to consummate the transactions contemplated by this Agreement or to perform its obligations hereunder.

6.5. Investment. The acquisition of the Shares by Buyer is being made for investment by Buyer and not with a view towards resale in connection with any distribution thereof.

6.6. Financial Resources. Buyer possesses the financial resources to complete the transaction contemplated herein.

Section 7. Covenants of Seller.

Seller, jointly and severally, hereby covenant and agree with Buyer as follows:

7.1. Conduct of Business Pending Closing. From the date hereof until the Closing Date, Seller will cause the Company to:

7.1.1. maintain its existence in good standing;

7.1.2. maintain the general character of its business and conduct its business in the ordinary and usual manner;

7.1.3. maintain proper business and accounting records;

7.1.4. maintain its properties in good repair and condition; and

7.1.5. use its best efforts to preserve its business intact, to keep available to the Company the services of their present officers and employees and to preserve for the Company the goodwill of their policyholders, subscribers, customers and others having business relations with the Company.

7.2. Prohibited Actions Pending Closing. Unless otherwise provided for herein or approved by Buyer in writing, from the date hereof until the Closing Date, Seller shall cause each of the Company not to:

7.2.1. Amend or otherwise change its respective Certificates or Articles of Incorporation, Bylaws or other governing documents.

7.2.2. Issue or sell, or authorize for issuance or sale, or grant any options or make other agreements with respect to, any shares of its capital stock or any other of its securities.

7.2.3. Authorize or incur any additional debt for money borrowed, or incur any additional debt other than normal trade debt and other than the lease of a motor vehicle for Seller's business use.

7.2.4. Mortgage, pledge or subject to lien or other encumbrance any of its properties or agree to do so.

7.2.5. Enter into or agree to enter into any material agreement, contract or commitment other than sales agreements entered into in the ordinary course of business.

7.2.6. Declare, set aside, make or pay any dividend or other distribution to Seller, or redeem, purchase or otherwise acquire, directly or indirectly, any of their capital stock, or authorize or effect any split-up or any recapitalization or make any changes in its authorized or issued capital stock; provided, however, that the Company may distribute all of the cash or other liquid marketable assets of the Company to Seller provided sufficient cash is available at closing to meet the Company's obligations set forth in Section 7.2.7.

7.2.7. As of the Closing Date, the Company shall have sufficient cash to pay the commissions due agents inside and outside of the Swift Kennedy Group and pay premiums due Blue Cross for "administered plans" up to the Closing Date.

7.2.8. Increase or agree to increase the compensation of any of its officers or directors, except that the Company may distribute all of the cash or other liquid marketable assets of the Company to Seller provided sufficient cash is available at closing to meet the Company's obligations set forth in Section 7.2.7.

7.2.9. Establish or adopt any Plan; modify, amend, restate, terminate or revise any Plan; take any action to deplete any asset of any Plan; or distribute any communication to any employee relating to a Plan except that Seller may terminate the Company's "Defined Benefit Pension Plan".

7.2.10. Sell or otherwise dispose of, or agree to sell or dispose of any of its assets or properties, except in the ordinary course of business. Company may trade the motor vehicle Seller drives.

7.2.11. Amend or terminate any lease, contract, undertaking or other commitment listed in any of the Exhibits or Schedules to this Agreement to which it is a party, or to take action or fail to take any action, which would result in an event of default thereunder.

7.2.12. Assume, guarantee or otherwise become responsible for the obligations of any other party or agree to so do.

7.2.13. Invest any assets of the Company which are to be sold and transferred to Buyer, except the reinvestment of cash or cash equivalents in U.S. Treasury Bills and/or certificates of deposit.

7.2.14. Take any action prior to the Closing Date which would breach any of the representations and warranties contained in this Agreement.

7.3. Access. From and after the date hereof until the Closing, Seller shall cause the Company to afford and, with respect to clause (b) below, shall cause the independent certified public accountants for the Company to afford, (a) to the officers, independent certified public accountants, counsel and other representatives of Buyer free and full access at all reasonable times to the properties, books and records (including tax returns filed and those in preparation) of the Company and the right to consult with the officers, employees, accountants, counsel and other representatives of the Company in order that Buyer may have full opportunity to make such investigations as it shall reasonably desire to make of the affairs of the Company, including without limitation, the taking by independent certified public accountants of Buyer of a physical inventory of the Company, (b) to the independent certified public accountants of Buyer free and full access at all reasonable times to the work papers and other records of the accountants who have prepared financial statements relating to the Company and (c) to Buyer and its representatives such additional financial and operating data and other information as to the business and properties of the Company, as Buyer shall from time to time reasonably require; provided, however, that any such investigation shall not affect or otherwise diminish or obviate in any way any of the representations and warranties of Seller hereunder.

7.4. Attorney-in-Fact. Each Seller hereby irrevocably appoints David J. Hopkins, Esquire as such Seller's attorney-in-fact and representative (the "Attorney-in-Fact"), such appointment to be coupled with an interest and not to terminate in the event of the death or incapacity of such Seller, to do any and all things and to execute any and all documents or other papers, in such Seller's name, place and stead, in any way which such Seller could do if personally present, in connection with this Agreement and the transactions contemplated thereby, including, without limitation, to act on behalf of all Seller in connection with matters arising under this Agreement. Buyer shall be entitled to rely, as being binding upon each Seller, upon any document or other paper believed by it to be genuine and correct and to have been signed or sent by the Attorney-in-Fact, and Buyer shall not be liable to any Seller for any action taken or omitted to be taken by it in such reliance.

Section 8. Conditions Precedent to Buyer's Obligations.

8.1. All obligations of Buyer under this Agreement are subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Buyer):

8.2. Representations and Warranties True as of Closing Date. Seller's representations and warranties contained in this Agreement and Schedules hereto shall be true on and as of the date hereof and shall be true on and as of the Closing Date with the same effect as though such representations and warranties were made on and as of the Closing Date, except for changes in the ordinary course of business which, individually or in the aggregate, do not result in a material adverse change to the Company.

8.3. Compliance with this Agreement. Seller shall have performed and complied with all agreements and conditions contained in this Agreement that are required to be performed or complied with by them prior to or at the Closing.

8.4. No Damage to Business. The properties or business of the Company shall not have been and shall not be threatened to be adversely affected as a result of fire, explosion, earthquake, disaster, accident, flood, drought, embargo, riot, civil disturbance, uprising, activity of armed forces or act of God or public enemy. There shall not be pending or threatened any strike or any action by any governmental authority which would have a material adverse effect on the properties or Business of the Company.

8.5. No Restraint. No suit, action, proceeding, or investigation shall have been instituted or threatened by any governmental agency, and no injunction shall have been issued and then outstanding, to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated by this Agreement.

8.6. Notifications and Consents. Seller shall have timely given notice required to be given by them to any third party in connection with the consummation of the transactions contemplated hereby, including, without limitation, required notices to the holders of any indebtedness of the Company, the lessors of any real or personal property leased by the Company, Swift Kennedy Financial, Inc. and Matthew T. Ruttinger.

8.7. Resignations. Seller shall have delivered to Buyer the written resignation of each director of the Company.

Section 9. Conditions Precedent to Seller' Obligations.

All obligations of Seller under this Agreement are subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Seller):

9.1. Compliance with this Agreement. Buyer shall have performed and complied with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing.

9.2. Secretary's Certificate. Seller shall have been furnished with a certificate dated the Closing Date and signed by the Secretary or an Assistant Secretary of Buyer, setting forth (i) the names, signatures and positions of the officers of Buyer who have executed this Agreement or any other document executed by Buyer and delivered to Seller as a Closing document hereunder, and (ii) a copy of the resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement.

9.3. No Restraint. No suit, action, proceeding or investigation shall have been instituted or threatened by any governmental agency, and no injunction shall have been issued and then be outstanding to restrain, prohibit or otherwise challenge the legality or validity of any of the transactions contemplated by this Agreement.

Section 10. Cooperation.

10.1. All parties hereto shall use their best efforts (i) to respond promptly to any requests for additional information made by any governmental agencies (keeping the other parties informed of such requests) and (ii) to resist vigorously at their respective cost and expense any assertion that the transactions provided herein constitute a violation of any law, rule or regulation, all to the end of expediting the Closing.

10.2. Further Assurances. From and after the Closing, Seller, and Buyer, agree to execute and deliver such further documents and instruments and to do such other acts and things as Buyer or Seller, as the case may be, may reasonably request in order to effectuate the transactions contemplated by this Agreement. In the event any party shall be involved in litigation, threatened litigation or government inquiries with respect to a matter involving the Company, the other party shall also make available to such first party, at reasonable times and subject to the reasonable requirements of its or his own business, such of its or his personnel as may have information relevant to the matters provided such first party shall reimburse the providing party for its or his reasonable costs for employee time incurred in connection therewith if more than one business day is required. Following the Closing, the parties will cooperate with each other in connection with tax audits and in the defense of any legal proceedings, consistent with the other provisions for defense of claims provided in this Agreement to the extent such cooperation does not cause unreasonable expense, unless such expense is borne by the requesting party.

Section 11. Indemnification.

11.1. Indemnification by Seller. For a period of five (5) years after the Closing Date, Seller shall jointly and severally indemnify Buyer and hold Buyer harmless at all times from and after the Closing Date against and in respect of:

11.1.1. Any and all damages, losses, liabilities, taxes and deficiencies and penalties and interest thereon and costs and expenses resulting from any misrepresentation, breach of warranty and/or nonfulfillment of any covenant or agreement on the part of Seller under this Agreement. Seller's obligation for nonfulfillment of any obligation or agreement on the part of Seller under this Agreement shall end on the Closing Date.

11.1.2. Any claims or litigation relating to the company now pending or threatened or which may hereafter be brought against Buyer based upon events occurring prior to the Closing Date and not attributable to the acts of Buyer.

11.2. Indemnification by Buyer. Buyer shall indemnify Seller and hold Seller harmless at all times from and after the Closing Date against and in respect of:

11.2.1. Any and all damages, losses, liabilities, taxes and deficiencies, penalties and interest thereon and costs and expenses resulting from any misrepresentation, breach of warranty, and/or nonfulfillment of any covenant or agreement on the part of the Buyer.

11.2.2 Any claims or litigation relating to the company which may hereafter be brought against Buyer based upon events occurring subsequent to the Closing Date and not attributable to the acts of Seller.

11.3. Period of Indemnity. The aforesaid indemnities of Buyer and Seller shall remain in full force and effect: (a) as they relate to a third-party claim against any of Buyer, Seller, the Company, for a period equal to the applicable statute of limitation for such claim; and (b) as they relate to breaches of representations, warranties or covenants made by Seller and Buyer, for the period provided in this Agreement; provided, however, if at the expiration of the appropriate period any claim or assessment for indemnification has been asserted but not fully determined, or any audit or other proceeding with respect to any tax matter has been initiated, such period will be extended as to such claim, assessment, audit or other proceeding until it is finally determined or concluded.

11.4. Notice to the Indemnitor. Immediately after the assertion of any claim by a third party or occurrence of any event which may give rise to a claim for indemnification from an indemnitor (the "Indemnitor") under this Section, the party seeking indemnification (the "Indemnified Party") shall notify the Indemnitor in writing of such claim and, with respect to claims by third parties, advise the Indemnitor whether the Indemnified Party intends to contest same.

11.5. Rights of Parties to Settle or Defend. If the Indemnified Party determines not to contest such claim, the Indemnitor shall have the right, at its own expense, to contest and defend against such claim. If the Indemnified Party determines to contest such claim, the Indemnitor shall have the right to be represented, at its own expense by its own counsel and accountants (their participation to be subject to the reasonable direction of the Indemnified Party). In either case, the Indemnified Party shall make available to the Indemnitor and its attorneys and accountants, at all reasonable times during normal business hours, all books, records, and other documents in its possession relating to such

claim. The party contesting any such claim shall be furnished all reasonable assistance in connection therewith by the other party. If the Indemnitor fails to undertake the defense of or settle or pay any such third-party claim within ten (10) days after the Indemnified Party has given written notice to the Indemnitor advising that the Indemnified Party does not intend to contest such claim, or the Indemnitor, after having given such notification to the Indemnified Party, fails forthwith to defend, settle or pay such claim, then the Indemnified Party may take any and all necessary action to dispose of such claim including, without limitation, the settlement or full payment thereof upon such terms as it shall deem appropriate, in its sole discretion, subject to the following with respect to any proposed settlement thereof.

11.6. Settlement Proposals. In the event the Indemnified Party desires to settle any such third-party claim (whether or not contested by the Indemnitor), the Indemnified Party shall advise the Indemnitor of the amount it proposes to pay in settlement thereof (the "Proposed Settlement"). If such Proposed Settlement is unsatisfactory to the Indemnitor, it shall have the right, at its expense, to contest such claim by giving written notice of such election to the Indemnified Party within ten (10) days after the Indemnitor has been advised of the Proposed Settlement. If the Indemnitor does not deliver such written notice within ten (10) days after the Indemnitor has been advised of the Proposed Settlement, the Indemnified Party may offer the Proposed Settlement to the third party making such claim. If the Proposed Settlement is not accepted by the party making such claim, any new Proposed Settlement figure which the Indemnified Party may wish to present to the party making such claim shall first be presented to the Indemnitor who shall have the right, subject to the conditions hereinabove set forth in this Section, to contest such claim. In all such events, the Indemnitor shall indemnify the Indemnified Party and hold it harmless against and from any and all costs of defense, payment or settlement, including reasonable attorneys' fees incurred in connection therewith.

11.7. Reimbursement. At the time that the Indemnified Party shall suffer a loss because of a breach of any warranty, representation or covenant by the Indemnitor or at the time the amount of any liability on the part of the Indemnitor under this Section is determined (which in the case of payments to third persons shall be the earlier of (a) the date of such payments or (b) the date that a court of competent jurisdiction shall enter a final judgment, order or decree (after exhaustion of appeal rights establishing such liability)), the Indemnitor shall forthwith, upon notice from the Indemnified Party, pay to the Indemnified Party, the amount of the indemnity claim. If such amount is not paid forthwith, then the Indemnified Party may, at its option, take legal action against the Indemnitor for reimbursement in the amount of its indemnity claim. For purposes hereof the indemnity claim shall include the amounts so paid (or determined to be owing) by the Indemnified Party together with costs and reasonable attorneys' fees and interest on the foregoing items at the rate of six percent (6.0%) per annum from the date the obligation is due from the Indemnified Party to the Indemnitor, as hereinabove provided, until the indemnity claim shall be paid.

11.8. Limitation on Indemnity. Anything herein to the contrary notwithstanding, an Indemnitor shall be required to indemnify and hold harmless an indemnified party under

this Section 11 only to the extent that the aggregate amount of the Indemnified Party's claims hereunder exceeds the sum of Five Thousand (\$5,000.00) Dollars.

11.9. No Effect on Right of Offset. Nothing in this Section shall adversely affect Buyer's right to offset any future payments due Seller as otherwise provided for in this Agreement provided Buyer has complied with the applicable notice provisions and Buyer has suffered an actual monetary loss.

Section 12. Survival of Representations and Warranties. All representations, warranties, covenants and agreements made by each party in this Agreement, in any Exhibit or Schedule hereto, or in any list, certificate, document or written statement furnished or delivered by any such party pursuant hereto shall survive the Closing, and shall remain in full force and effect, notwithstanding any investigation conducted before or after the Closing or the decision of any party to complete the Closing, for a period of one (1) year following the Closing Date; provided, however, that (a) all representations and warranties made by Seller with respect to tax matters shall survive until the relevant statute of limitations with respect to each such item has run and (b) if at the expiration of the appropriate period any claim or assessment for indemnification has been asserted but not fully determined, or any audit or other proceeding with respect to any tax matter has been initiated, such period will be extended as to such claim, assessment, audit or other proceeding until it is finally determined or concluded, and each party hereto shall be entitled to rely upon the representations and warranties of the other party set forth in this Agreement.

Section 13. Brokers' and Finders' Fees.

13.1. Seller. Seller represents and warrants to Buyer that all negotiations relative to this Agreement have been carried on by it directly without the intervention of any person or entity who or which may be entitled to a brokerage fee or other commission in respect of the execution of this Agreement or the consummation of the transactions contemplated hereby. Seller agree to indemnify and hold Buyer harmless against any and all claims, losses, liabilities or expenses which may be asserted against it as a result of Seller' or any of their affiliates' dealings, arrangements or agreements with any person or firm claiming to be a broker or finder.

13.2. Buyer. Buyer represents and warrants to Seller that all negotiations relative to this Agreement have been carried on by it directly without the intervention of any person or entity who or which may be entitled to any brokerage fee or commission in respect of the execution of this Agreement or the consummation of the transactions contemplated hereby, and Buyer agrees to indemnify and hold Seller harmless against any and all claims, losses, liabilities or expenses which may be asserted against them as a result of Buyer's or any of its affiliates' dealings, arrangements or agreements with any such other person or entity claiming to be a broker or finder.

Section 14. Additional Covenants.

14.1. Expenses. Each party hereto shall pay its own expenses incidental to the preparation of this Agreement, the carrying out of the provisions of this Agreement and the consummation of the transactions contemplated hereby.

14.2. Press Releases. Neither Buyer nor Seller shall issue any press release nor otherwise make public any information with respect to this Agreement or the transactions contemplated thereby, prior to the Closing Date, without the express written consent of the other.

14.3. Allocation of Purchase Price. Buyer and Seller acknowledge that the allocation of the purchase price between the Shares and the covenants contained in Section 4 hereof was bargained for and negotiated. Buyer and Seller agree to report the transaction for Federal, state and local income tax purposes in a manner consistent with such allocation and in accordance with all applicable regulations, including, without limitation, Section 1060 of the Code. Seller acknowledge that they will report the receipt of amounts paid pursuant to the covenants contained in Section 4 hereof as ordinary income for all Federal, state and local income tax purposes.

Section 15. Contents of Agreement; Parties in Interest. This Agreement and the agreements referred to herein set forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended except by a written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

Section 16. Assignment and Binding Effect. This Agreement may not be assigned by either party hereto without the prior written consent of the other party; provided, however, Buyer may assign this Agreement to any of its subsidiaries or affiliates, without Seller' consent, as long as, in such event, Buyer shall remain liable for its obligations hereunder. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, personal representatives, successors and assigns of the parties hereto.

Section 17. Waiver. Any term or provision of this Agreement may be waived at any time by the party entitled to the benefit thereof by a written instrument duly executed by such party.

Section 18. Termination.

This Agreement may be terminated as follows:

18.1. Mutual Consent. By the board of directors of Buyer and by Seller mutually agreeing to terminate this Agreement; or

18.2. Exercise of Right of First Refusal. Swift Kennedy Financial Company, Inc or Matthew T. Ruttinger exercise their right of first refusal to purchase the company. Seller shall present the relevant terms of this Agreement to Swift Kennedy Financial Company, Inc. within five business (5) days of receipt of a fully executed copy of this Agreement.

18.3. In the event of the termination by either party as provided above, written notice of termination will forthwith be given by the party electing to terminate to the other party. Any termination pursuant to this Section shall be without liability on the part of any party to the other party hereto, except if such termination has resulted by reason of a breach by such party of any of its material obligations hereunder. Nothing in this Agreement shall be deemed to require any party to terminate this Agreement in the event that a condition precedent to its obligations hereunder is not met, rather than to waive such condition precedent and proceed to Closing.

Section 19. Notices. Any notice, request, demand, waiver, consent, approval, or other communication which is required or permitted to be given to any party hereunder shall be in writing and shall be deemed given only if delivered to the party personally or sent to the party by registered, certified mail (return receipt requested), or overnight mail using UPS or Federal Express, with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth below:

If to Buyer: Mr. G. Scott Carlson, President
Helpmates, Inc.
225 South Street
Ridgway, PA 15853

With copies to: Mark S. Weaver, Esq.
The Mazza Law Group, P.C.
1315 S. Allen Street, Suite 302
State College, PA 16801

If to Seller: Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

With copies to: David J. Hopkins, Esq.
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

or to such other address or person as any party may have specified in a notice duly given to the other party as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered or mailed.

Section 20. Governing Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania as applied to contracts made and fully performed in such state.

Section 21. No Benefit to Others. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto and their respective successors and assigns and they shall not be construed as conferring, and are not intended to confer, any rights on any other persons.

Section 22. Section Headings. All section headings are for convenience only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 23. Schedules and Exhibits. All Schedules and Exhibits referred to herein are intended to be and hereby are specifically made a part of this Agreement.

Section 24. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and Seller and Buyer may become a party hereto by executing a counterpart hereof. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 25. Other Agreements. Upon Closing, the Buyer shall cause the Company to enter into an employment agreement with Stephen R. Volpe substantially upon the same terms and conditions as attached hereto as Exhibit E.

Section 26. Life Insurance. The parties acknowledge that the Company presently owns and is the beneficiary of a policy of life insurance (US Financial Life Insurance Company – Policy No. 163208) on the life of Stephen R. Volpe with death benefits of \$1,100,000.00. Upon Closing, the Company and/or Stephen R. Volpe shall cause the beneficiary of such policy to be changed to Buyer and the heirs of Stephen R. Volpe until such time as the promissory note described in Section 3 is paid in full. However, the portion of the proceeds payable from the life insurance policy to the heirs of Stephen R. Volpe shall not exceed the amount due on the promissory note. Upon payment in full of the amount due under the promissory note, the beneficiary shall be the Buyer.

Section 27. Contingency.

27.1. The obligations of Seller to close this transaction is contingent on Swift Kennedy Financial Company, Inc. not exercising its right of first refusal to purchase the business of Swift Kennedy & Associates, Inc. as described in an agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy & Associates, Inc. and Stephen R. Volpe.

27.2. The obligations of Seller to close this transaction is contingent on Matthew T. Ruttinger not exercising his right to purchase the business of Swift Kennedy & Associates, Inc. as described in an agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy & Associates, Inc. and Stephen R. Volpe.

27.3. The obligations of Buyer pursuant to this Agreement are specifically contingent upon Buyer receiving financing from an institution of Buyer's choice upon such terms and conditions as Buyer shall, in its sole discretion, deem favorable and in its best interest. Nothing contained herein shall obligate Buyer to accept any offer of financing that Buyer does not, in its sole discretion, deem not to be in Buyer's best interest for any reason. In the event Buyer does not close this transaction pursuant to this paragraph 27.3, Buyer shall pay Seller Thirty Thousand Dollars (\$30,000.00) within thirty (30) days of Buyer notifying Seller that Buyer is not closing or Seller fails to close pursuant to paragraph 2.1.

Section 28. Automobile. On or after May 1, 2004, Seller or Seller's estate may purchase a 1998 Honda Accord titled in the name of the Company from the Company for the purchase price of One Dollar (\$1.00).

Section 29. Matthew T. Ruttinger. All references to the rights of Matthew T. Ruttinger and Swift Kennedy Financial Company, Inc. are those rights set forth in an Agreement dated January 6, 1997 between Matthew T. Ruttinger, Swift Kennedy Associates, Inc. and Stephen R. Volpe.

Section 30. Seller's Opinion of Counsel. At Closing, Seller's Counsel shall provide an opinion letter that the "Rights of First Refusal" of Swift Kennedy Financial Company, Inc. and Matthew T. Ruttinger have been removed or waived.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

Company:
Swift Kennedy & Associates, Inc.

By: 
Stephen R. Volpe, President

Attest: 
Stephen R. Volpe, Secretary

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President

Attest: _____
Secretary


Stephen R. Volpe, Seller

EXHIBIT A

Promissory Note

PROMISSORY NOTE

Amount: \$ 480,000.00
Location: DuBois, Pennsylvania
Date: May ___, 2002

FOR VALUE RECEIVED, and intending to be legally bound hereby, **HELPMATES, INC., a Pennsylvania corporation**, of 225 South Street, Ridgway, Pennsylvania, hereinafter called the "MAKER," hereby promises to pay to the order of **STEPHEN R. VOLPE, an adult individual**, having a mailing address of 1017 Green Glen Drive, DuBois, Clearfield County, Pennsylvania 15801, hereinafter called the "PAYEE," the sum of **FOUR HUNDRED and EIGHTY THOUSAND (\$480,000.00) DOLLARS**, together with interest at the annual rate of six (6%) percent, beginning as of the date set forth above, with payments to be made as follows:

On or before May 1, 2004, the sum of \$160,000.00

- Principal of \$134,333.08
- Interest of \$25,666.92;

On or before May 1, 2005, the sum of \$160,000.00

- Principal of \$142,393.42
- Interest of \$17,606.58;

On or before May 1, 2006, the sum of \$160,000.00

- Principal of \$150,943.39
- Interest of \$9,056.61;

and provided that, without prior demand, the entire unpaid balance due under this Promissory

Note shall be payable from MAKER to PAYEE on or before the earlier of May 1, 2006 or the death of Stephen R. Volpe. In the event of Stephen R. Volpe, said payment shall be made from a life insurance policy owned by Swift Kennedy & Associates, Inc., its successors and assigns, under Policy No. 163208-US Financial Life Insurance Company. However, if the policy has lapsed or otherwise fails to make payment, MAKER shall nevertheless make all payments as required herein.

MAKER shall have the right to prepay any or all of the amounts due under this Promissory Note at any time, without penalty. However the total amount of said prepayment shall be \$480,000.00 less the payments MAKER has made under the note prior to the prepayment.

If any payment due under this Promissory Note has not been paid in full on the date it is due, MAKER shall be in default hereunder and in the event of such default PAYEE shall have available all remedies under the law and this Note, and PAYEE may, at PAYEE's election and without prior demand undertake any and all legal remedies available to collect the balance due. If this Promissory Note is placed in the hands of an attorney for collection, the MAKER agrees to pay as a reasonable attorney fee the greater of: (a) five (5%) percent of the amount due and owing on this defaulted note, or (b) the reasonable attorney's fees and court costs actually incurred by the holder in collection of the amount due.

Further, in the event of default hereunder, MAKER hereby authorizes and empowers any attorney or the Prothonotary or clerk of any court in the Commonwealth of Pennsylvania, or elsewhere, to appear for MAKER and confess judgment in favor of the PAYEE or any Holder of

this Note for the unpaid balance of principal and any unpaid interest and late charges thereon, with costs of suit and reasonable attorney's fees.

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. The PAYEE or any Holder of this Note may enforce its rights under this Note against each person individually or against all of the MAKERS together. This means that any one of the MAKER may be required to pay all of the amounts owed under this Note. Any effort to collect the amount due under this Promissory Note shall not exhaust the right of collection, but the amount due hereunder may be enforced in more than one action and in more than one jurisdiction.

This Note shall bind the MAKER, and its respective successors and assigns, and the benefits hereto shall inure to the PAYEE, and his heirs, successors, personal representatives, successors and assigns.

ACKNOWLEDGEMENT OF CONFESSION OF JUDGMENT

THE UNDERSIGNED ACKNOWLEDGE(S) AND AGREE(S) THAT THE UNDERSIGNED ARE (IS) EXECUTING AND DELIVERING A PROMISSORY NOTE OR OTHER LOAN DOCUMENT WHICH CONTAINS A CONFESSION OF JUDGMENT CLAUSE PURSUANT TO WHICH THE HOLDER IS AUTHORIZED TO ENTER A JUDGMENT AGAINST THE UNDERSIGNED AND IN FAVOR OF THE HOLDER UPON THE OCCURRENCE OF AN EVENT OF DEFAULT PURSUANT TO THE TERMS OF SUCH DOCUMENT. IN CONSIDERATION OF THE WILLINGNESS OF THE PAYEE TO EXTEND CREDIT AS PROVIDED FOR IN SUCH DOCUMENT AND ANY RELATED LOAN DOCUMENTS, THE UNDERSIGNED HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY ACKNOWLEDGES, CONSENTS AND AGREES AS FOLLOWS:

(a) THE UNDERSIGNED ARE (IS) FULLY AWARE OF THE RIGHTS OF THE UNDERSIGNED TO PRIOR NOTICE AND HEARING ON THE VALIDITY OF ANY CLAIMS THAT MAY BE ASSERTED AGAINST THE UNDERSIGNED BY THE HOLDER UNDER THE DOCUMENT(S) BEFORE JUDGMENT CAN BE ENTERED AND BEFORE ASSETS OF THE UNDERSIGNED CAN BE GARNISHED AND ATTACHED;

(b) THE UNDERSIGNED ARE (IS) FULLY AWARE THAT BY AUTHORIZING CONFESSION OF JUDGMENT, THE UNDERSIGNED ARE (IS) GIVING UP THE RIGHT OF THE UNDERSIGNED TO ANY NOTICE OR OPPORTUNITY TO BE HEARD PRIOR TO THE ENTRY OF JUDGMENT IN FAVOR OF THE

HOLDER AND PRIOR TO GARNISHMENT AND ATTACHMENT OF BANK ACCOUNTS AND OTHER ASSETS OF THE UNDERSIGNED.

(c) THE UNDERSIGNED ARE (IS) FULLY AWARE THAT A JUDGMENT ENTERED AGAINST THE UNDERSIGNED WILL CONSTITUTE A LIEN UPON ANY REAL ESTATE OF THE UNDERSIGNED LOCATED IN THE COUNTY IN WHICH JUDGMENT IS ENTERED AND WILL ENTITLE THE HOLDER TO IMMEDIATE ATTACHMENT AND GARNISHMENT OF BANK ACCOUNTS AND OTHER PERSONAL PROPERTY OF THE UNDERSIGNED WITHOUT PRIOR NOTICE;

(d) THE UNDERSIGNED WAIVES THE RIGHTS WHICH THE UNDERSIGNED HAVE (HAS) TO PRIOR NOTICE AND HEARING ON THE VALIDITY OF ANY CLAIMS THAT MAY BE ASSERTED AGAINST THE UNDERSIGNED BY THE HOLDER UNDER THE DOCUMENT(S) AND AGREES THAT UPON OCCURRENCE OF AN EVENT OF DEFAULT UNDER THE DOCUMENT(S), OR AT ANY TIME THEREAFTER, THE HOLDER MAY OBTAIN A JUDGMENT AGAINST THE UNDERSIGNED WITHOUT THE UNDERSIGNED'S PRIOR KNOWLEDGE OR CONSENT AND WITHOUT THE OPPORTUNITY TO RAISE ANY DEFENSE, SET OFF, COUNTERCLAIM OR OTHER CLAIM WHICH THE UNDERSIGNED MAY HAVE, AND MAY GARNISH AND ATTACH THE BANK ACCOUNTS AND OTHER ASSETS OF THE UNDERSIGNED WITHOUT PRIOR NOTICE OR OPPORTUNITY FOR A HEARING.

(e) THE UNDERSIGNED ACKNOWLEDGED(S) THAT THE UNDERSIGNED WILL BE UNABLE TO CHALLENGE THE JUDGMENT IN THE EVEN THAT THE HOLDER ENTERS THE JUDGMENT, EXCEPT BY PROCEEDING TO OPEN OR STRIKE THE JUDGMENT; AND THAT SUCH A PROCEEDING MAY REQUIRE PAYMENT OF ATTORNEY'S FEES AND COSTS BY THE UNDERSIGNED.

(f) THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE LOAN FOR WHICH THE UNDERSIGNED HAS BECOME OBLIGATED FOR REPAYMENT PURSUANT TO THE PROMISSORY NOTE HAS BEEN ADVANCED FOR BUSINESS PURPOSES.

WITNESS the due execution hereof this _____ day of _____, 2002.

Helpmates, Inc.

By: _____
G. Scott Carlson, President

Attest: _____
Secretary

EXHIBIT B

Liabilities of Swift Kennedy Associates, Inc.

Lease of 2002 Cadillac DeVille
Monthly payment \$758.00 per month
Lease expires March 21, 2005

EXHIBIT C

MACHINERY & EQUIPMENT

Leases
Cubical
Credenza
Chair
Computer

Linda's cubical
Desk
Computer
Credenza
Fax machine
Chair
Two printers
Two file cabinets
Lateral cabinet
Printer

Computer room
Computer
Fire filing cabinet
Shelving
Stereo system
Chair
Executive desk
5 or 6 file cabinets

Steve's office
Credenza
Desk
3 leather chairs
Mahogany round table
Mahogany bookcase
Mahogany shelve across credenza
Laptop computer
Printer

EXHIBIT D

CONTRACTS

First Colony
AIG
Anthem BC
Banner Life
Blue Cross
Dental Plus
Keystone
Central States
Colonial
Conseco
Crown Ben
Delta Dental
First Colony Life
GTL
Geisinger
Hartford
Health America
Highmark life
International Medical Group
Lillis, Mckibbon, Loesel-Cschaaf
Metropolitan Life
Principal
Protective
Security Mutual
 Security Mutual Override
TimeFortis
UPMC
US Financial
US Healthcare
Union Bankers
VBS Washington National

Contract with Lisa Cooper

Contract with Linda Barnacastle

Contractual rights with Swift Kennedy Financial Company
Contractual prohibitions from engaging in business or competing
against Swift Kennedy Financial Company, Inc.

Pledge to Christian Missionary Alliance in the amount of \$400.00 payable October, 2002

Right of First Refusal Agreement with Swift Kennedy Financial and Matthew T.
Ruttinger pursuant to paragraph 27.2 and 27.3.

Commissions due to individual agents for referrals in the approximate amount as of
March 1, 2002 of \$2,000.00

Ongoing obligations of approximately 57 sub producers who are paid on a commission
basis.

EXHIBIT E

Employment Agreement

Employment Agreement

THIS AGREEMENT is made effective the _____ day of May, 2002, by and between:

Swift-Kennedy & Associates, Inc., a Pennsylvania corporation (hereinafter referred to as the "Corporation"),
and

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania 15801 (hereinafter referred to as the "Employee"). The Corporation hereby employs Employee and Employee hereby accepts employment on the terms and conditions that follow:

1. During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation as set forth below:

- a. On average, thirty (30) hours per week for months one (1) through twelve (12);
- b. On average, twenty four (24) hours per week for months thirteen (13) through twenty-four (24);
- c. On average, eighteen (18) hours per week for months twenty-five (25) through thirty-six (36);
- d. On average, twelve (12) hours per week for months thirty-seven (37) through forty-eight (48);
- e. On average, six (6) hours per week for months forty-nine (49) through sixty (60);

2. All insurance sales business and/or services performed by the Employee and any revenues derived from them shall be considered the business and the income of the Corporation. The Employee shall be obligated during the term of this Agreement to irrevocably assign all revenues to the Corporation immediately upon receipt by the Employee other than as prohibited by the securities laws of the United States and the Commonwealth of Pennsylvania..

3. As compensation for the services to be rendered by Employee, the Corporation shall pay Employee a fixed salary at a rate per year specified in Schedule A, attached to this Agreement and made a part of it, payable in accordance with the Corporation's normal payroll periods for all employees unless otherwise agreed. Provided that if the employment shall terminate for any reason then the salary payable for the period during which the employment terminates shall be prorated. In addition, Employee shall be

entitled to participate in the benefit plan(s) as specified on Schedule A, and shall receive commission compensation as specified on Schedule A.

4. As additional compensation, the corporation shall pay employee such bonus or bonuses as may from time to time be awarded to Employee by the Board of Directors of the Corporation, in its discretion, payable at times and in amounts that the Board of Directors may determine.

5. The term of employment shall be five (5) years from the date specified in Schedule A attached to this Agreement, but subject to the following:

(a) This Agreement may be terminated at any time by mutual agreement in writing of the Corporation and Employee.

(b) If during the effective period of this Agreement Employee violates any of the provisions of this Agreement, the Corporation may, on 30 days notice to Employee, terminate this Agreement.

(c) For cause, including without limitation, Employee's failure or refusal to perform obligations under this Agreement, the Corporation may terminate this Agreement at any time on 30 days notice to Employee.

(d) The corporation may terminate this Agreement on 30 days written notice to Employee in the event the Corporation adopts a bona fide plan to terminate its business and liquidate its assets, or on the Corporation being ordered to be liquidated pursuant to a judicial proceeding.

(e) At the end of the employment term as set forth herein, Employee may renew this Agreement on a year to year basis for so long as Employee so desires. Employee shall be compensated during the renewal terms of this Agreement by receiving fifty (50%) percent of commissions on the net commission payable to the Corporation on all new business and on renewals of new business generated from the commencement date of this Agreement. Corporation shall also be obligated to continue to provide health insurance to Employee and Employee's spouse as set forth on Schedule A.

6. Employee agrees that during the term of this Agreement he will not engage in any other business duties or pursuits whatsoever, directly or indirectly, except activities approved in writing by the Board of Directors, directorships and companies not in competition with the Corporation, and passive personal investments. Furthermore, employee will not, directly or indirectly, be interested in any business competing with or similar in nature to the business of the Corporation and will not hold to any substantial degree any securities in any company competing with the Corporation.

7. Employee agrees to observe and comply with the rules and regulations of the Corporation as adopted by the Corporation's Board of Directors, either orally or in

writing, respecting performance of duties and to carry out and perform orders, directions, and policies stated by the Corporation, from time to time, either orally or in writing, as uniformly applied to all employees of the Corporation. Employee specifically understands that the Corporation shall have final authority over acceptance or refusal of any customer and over the amounts to be charged any customer for materials and/or services.

8. Employee recognizes and acknowledges that the list of the Corporation's customers, as it may exist from time to time, is a valuable, special, and unique asset of the Corporation's business. Employee will not, during or after the term of employment, disclose the list of the Corporation's customers or any part of it to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever. In the event of a breach or threatened breach by Employee of the provisions of this paragraph, the Corporation shall be entitled to an injunction restraining Employee from disclosing, in whole or in part, the list of the Corporation's customers, or for rendering any services to any person, firm, corporation, association, or other entity to whom this list, in whole in part, has been disclosed or threatened to be disclosed. Nothing in this Agreement shall be construed as prohibiting the Corporation from pursuing any other remedies available to the Corporation for such disclosure, including the recovery of damages from Employee.

9. During the period of employment, Employee will be reimbursed for reasonable expenses incurred on behalf of the Corporation in an amount not to exceed \$300 per month. In addition, Employee shall be entitled to use an automobile owned and insured by the Corporation as set forth on Schedule A in the conduct of business on behalf of the Corporation, and shall receive a credit card in the name of the Corporation for gasoline purchases. The Employee agrees to utilize the benefits set forth above only in accordance with the general policy of the Corporation as adopted by the Corporation's Board of Directors, from time to time and as uniformly applied to all employees of the Corporation. Corporation shall pay all of Employee's continuing education requirements and licensing fees, together with ancillary expenses, and such other expenses as are necessary to allow Employee to maintain his license to sell and broker insurance in the Commonwealth of Pennsylvania.

10. In addition to reimbursable expenses, the Employee may incur and pay in the course of employment by the Corporation certain other necessary expenses, which he will be required personally to pay and which the Corporation shall be under no obligation to reimburse, including, but not limited to the following: professional, entertainment, and promotional expenses; home telephone bills; educational expenses incurred for the purpose of maintaining or improving the Employee's skills other than continuing education requirements; club dues and the expenses of membership in civic groups, societies, and fraternal organizations; and all other items of reasonable and necessary expenses incurred by the Employee in the interests of the business of the Corporation. Nothing this paragraph will prevent the Corporation from agreeing to pay or reimburse Employee, in whole or in part, for any expenses in any of the categories enumerated above.

11. On termination of this agreement, Employee shall not be entitled to keep or preserve records or files that the Corporation has to any customers.

12. Employee shall be entitled to an annual vacation without loss of compensation, as specified in Schedule A attached to this Agreement. Employee shall be entitled to additional time without loss of compensation for attendance at meetings, conventions, and educational courses as the Board of Directors shall, from time to time, approve.

13. All notices required under this Agreement shall be in writing shall be deemed to have given at the time they are mailed in any general or branch United States Post Office, enclosed in a registered or certified postage paid envelope addressed to the respective parties as stated below, or to such changed address the party may have fixed by notice:

If to Corporation: Swift-Kennedy & Associates, Inc..
c/o Helpmates, Inc.
225 South Street
Ridgway, PA 15853
Attn: Mr. G. Scott Carlson, President

If to Employee: Mr. Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

Provided, however, that any notice of change of address shall be effective only upon receipt.

14. Failure to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of the term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers at anytime or times be deemed a waiver or relinquishment of the right or power for all or any other times.

15. Both parties recognize that the services to be rendered under this Agreement to the Corporation are special, and unique, and of extraordinary character. In the event of the breach by Employee of the terms and conditions of this Agreement, or in the event Employee shall without the written consent of the Corporation leave such employment and perform, in the future, services for any person, firm, or Corporation engaged in a competing business with the Corporation, then the Corporation shall be entitled to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in equity, to obtain damages for any breach of this Agreement, to enforce the specific performance by Employee, or to enjoin Employee from performing services for any other person, firm, or Corporation, during the period contracted for in this Agreement, without the need of posting any bond or other security during the pendency of such action.

16. The invalidity or unenforceable of any term, provision, or clause of this Agreement shall in no way impair or affect the validity or enforceability of any other provision of this Agreement, but shall remain in full force and effect.

17. This Agreement is personal in its nature and neither of the parties shall, without the consent of the other, assign or transfer this Agreement or any rights or obligations under this Agreement, except that the Corporation may assign or transfer this Agreement to a successor corporation in the event of merger, consolidation, transfer, or sale of all or substantially all of the assets of the Corporation, provided that in the case of any assignment or transfer, this Agreement shall be binding on and inure to the benefit of the successor corporation, and any successor corporation shall discharge and perform all of the obligations of the Corporation under this Agreement.

18. In the event of Employee's death or disability, Corporation shall nevertheless be obligated to maintain health insurance covering Employee and Employee's spouse as set forth in Schedule A. Employee or Employee's spouse may continue to have exclusive twenty four (24) hour use of a 2000 Honda Accord and on May 1, 2004, Employee or Employee's spouse may purchase said 2000 Honda Accord from the Corporation for One (\$1.00) Dollar.

In witness whereof, the parties to this writing have duly executed this Agreement as of the day and year first written above.

Swift Kennedy & Associates, Inc.

Stephen R. Volpe

By: _____

Schedule A

Effective date of this agreement: May _____, 2002

Amount of annual salary: Thirty Five Thousand (\$35,000.00) Dollars per year, payable in accordance with the Corporation's normal payroll periods plus commission.

Commission: Employee shall be entitled to receive a fifty (50%) percent commission on the net commission payable to the Corporation on all new business and on renewals of new business (not existing or renewal business that existed prior to May 1, 2002) generated directly by Employee for all new policies written by Employee during the term of this Agreement. Payments to be made to Employee quarterly.

Annual vacation: Ten (10) weeks

Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue.

Automobile: Corporation shall pay the lease payment on Employee's leased Cadillac automobile until the term of said lease ends. Thereafter, Employer shall provide Employee with an automobile lease allowance of \$700.00 per month that Employee can supplement as Employee so desires.

Swift Kennedy & Associates, Inc.

Stephen R. Volpe

By: _____

Employment Agreement

THIS AGREEMENT is made effective the 30th day of April, 2002, by and between:

Swift-Kennedy & Associates, Inc., a Pennsylvania corporation (hereinafter referred to as the "Corporation"),
and

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania 15801 (hereinafter referred to as the "Employee"). The Corporation hereby employs Employee and Employee hereby accepts employment on the terms and conditions that follow:

1. During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation at least five (5) hours per week.

2. All insurance sales business and/or services performed by the Employee and any revenues derived from them shall be considered the business and the income of the Corporation. The Employee shall be obligated during the term of this Agreement to irrevocably assign all revenues to the Corporation immediately upon receipt by the Employee other than as prohibited by the securities laws of the United States and the Commonwealth of Pennsylvania..

3. As compensation for the services to be rendered by Employee, the Corporation shall pay Employee a fixed salary at a rate per year specified in Schedule A, attached to this Agreement and made a part of it, payable in accordance with the Corporation's normal payroll periods for all employees unless otherwise agreed. Provided that if the employment shall terminate for any reason then the salary payable for the period during which the employment terminates shall be prorated. In addition, Employee shall be entitled to participate in the benefit plan(s) as specified on Schedule A, and shall receive commission compensation as specified on Schedule A.

4. As additional compensation, the corporation shall pay employee such bonus or bonuses as may from time to time be awarded to Employee by the Board of Directors of the Corporation, in its discretion, payable at times and in amounts that the Board of Directors may determine.

5. The term of employment shall be five (5) years from the date specified in Schedule A attached to this Agreement, but subject to the following:

(a) This Agreement may be terminated at any time by mutual agreement in writing of the Corporation and Employee.

(b) If during the effective period of this Agreement Employee violates any of the provisions of this Agreement, the Corporation may, on 30 days notice to Employee, terminate this Agreement.

(c) For cause, including without limitation, Employee's failure or refusal to perform obligations under this Agreement, the Corporation may terminate this Agreement at any time on 30 days notice to Employee.

(d) The corporation may terminate this Agreement on 30 days written notice to Employee in the event the Corporation adopts a bona fide plan to terminate its business and liquidate its assets, or on the Corporation being ordered to be liquidated pursuant to a judicial proceeding.

(e) At the end of the employment term as set forth herein, Employee may renew this Agreement on a year to year basis for so long as Employee so desires. Employee shall be compensated during the renewal terms of this Agreement by receiving fifty (50%) percent of commissions on the net commission payable to the Corporation on all new business and on renewals of new business generated from the commencement date of this Agreement. Corporation shall also be obligated to continue to provide health insurance to Employee and Employee's spouse as set forth on Schedule A.

6. Employee agrees that during the term of this Agreement he will not engage in any other business duties or pursuits whatsoever, directly or indirectly, except activities approved in writing by the Board of Directors, directorships and companies not in competition with the Corporation, and passive personal investments. Furthermore, employee will not, directly or indirectly, be interested in any business competing with or similar in nature to the business of the Corporation and will not hold to any substantial degree any securities in any company competing with the Corporation.

7. Employee agrees to observe and comply with the rules and regulations of the Corporation as adopted by the Corporation's Board of Directors, either orally or in writing, respecting performance of duties and to carry out and perform orders, directions, and policies stated by the Corporation, from time to time, either orally or in writing, as uniformly applied to all employees of the Corporation. Employee specifically understands that the Corporation shall have final authority over acceptance or refusal of any customer and over the amounts to be charged any customer for materials and/or services.

8. Employee recognizes and acknowledges that the list of the Corporation's customers, as it may exist from time to time, is a valuable, special, and unique asset of the Corporation's business. Employee will not, during or after the term of employment, disclose the list of the Corporation's customers or any part of it to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever. In the event of a breach or threatened breach by Employee of the provisions of this paragraph, the Corporation shall be entitled to an injunction restraining Employee from disclosing, in whole or in part, the list of the Corporation's customers, or for rendering any services to any person, firm, corporation, association, or other entity to whom this list, in whole in part, has been disclosed or threatened to be disclosed. Nothing in this Agreement shall be construed as prohibiting the Corporation from pursuing any other remedies available to the Corporation for such disclosure, including the recovery of damages from Employee.

9. During the period of employment, Employee will be reimbursed for reasonable expenses incurred on behalf of the Corporation in an amount not to exceed \$300 per month. In addition, Employee shall be entitled to use an automobile owned and insured by the Corporation as set forth on Schedule A in the conduct of business on behalf of the Corporation, and shall receive a credit card in the name of the Corporation for gasoline purchases. The Employee agrees to utilize the benefits set forth above only in accordance with the general policy of the Corporation as adopted by the Corporation's Board of Directors, from time to time and as uniformly applied to all employees of the Corporation. Corporation shall pay all of Employee's continuing education requirements and licensing fees, together with ancillary expenses, and such other expenses as are necessary to allow Employee to maintain his license to sell and broker insurance in the Commonwealth of Pennsylvania.

10. In addition to reimbursable expenses, the Employee may incur and pay in the course of employment by the Corporation certain other necessary expenses, which he will be required personally to pay and which the Corporation shall be under no obligation to reimburse, including, but not limited to the following: professional, entertainment, and promotional expenses; home telephone bills; educational expenses incurred for the purpose of maintaining or improving the Employee's skills other than continuing education requirements; club dues and the expenses of membership in civic groups, societies, and fraternal organizations; and all other items of reasonable and necessary expenses incurred by the Employee in the interests of the business of the Corporation. Nothing this paragraph will prevent the Corporation from agreeing to pay or reimburse Employee, in whole or in part, for any expenses in any of the categories enumerated above.

11. On termination of this agreement, Employee shall not be entitled to keep or preserve records or files that the Corporation has to any customers.

12. Employee shall be entitled to an annual vacation without loss of compensation, as specified in Schedule A attached to this Agreement. Employee shall be entitled to additional time without loss of compensation for attendance at meetings, conventions, and educational courses as the Board of Directors shall, from time to time, approve.

13. All notices required under this Agreement shall be in writing shall be deemed to have given at the time they are mailed in any general or branch United States Post Office, enclosed in a registered or certified postage paid envelope addressed to the respective parties as stated below, or to such changed address the party may have fixed by notice:

If to Corporation: Swift-Kennedy & Associates, Inc..
c/o Helpmates, Inc.
225 South Street
Ridgway, PA 15853
Attn: Mr. G. Scott Carlson, President

If to Employee: Mr. Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

Provided, however, that any notice of change of address shall be effective only upon receipt.

14. Failure to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of the term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers at anytime or times be deemed a waiver or relinquishment of the right or power for all or any other times.

15. Both parties recognize that the services to be rendered under this Agreement to the Corporation are special, and unique, and of extraordinary character. In the event of the breach by Employee of the terms and conditions of this Agreement, or in the event Employee shall without the written consent of the Corporation leave such employment and perform, in the future, services for any person, firm, or Corporation engaged in a competing business with the Corporation, then the Corporation shall be entitled to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in equity, to obtain damages for any breach of this Agreement, to enforce the specific performance by Employee, or to enjoin Employee from performing services for any other person, firm, or Corporation, during the period contracted for in this Agreement, without the need of posting any bond or other security during the pendency of such action.

16. The invalidity or unenforceable of any term, provision, or clause of this Agreement shall in no way impair or affect the validity or enforceability of any other provision of this Agreement, but shall remain in full force and effect.

17. This Agreement is personal in its nature and neither of the parties shall, without the consent of the other, assign or transfer this Agreement or any rights or obligations under this Agreement, except that the Corporation may assign or transfer this Agreement to a successor corporation in the event of merger, consolidation, transfer, or sale of all or substantially all of the assets of the Corporation, provided that in the case of any assignment or transfer, this Agreement shall be binding on and inure to the benefit of the successor corporation, and any successor corporation shall discharge and perform all of the obligations of the Corporation under this Agreement.

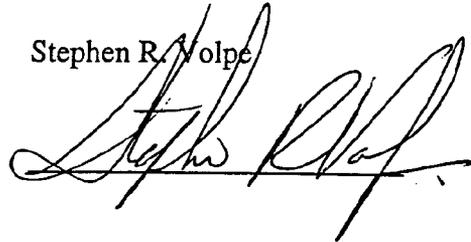
18. In the event of Employee's death or disability, Corporation shall nevertheless be obligated to maintain health insurance covering Employee and Employee's spouse as set forth in Schedule A. Employee or Employee's spouse may continue to have exclusive twenty four (24) hour use of a 2000 Honda Accord and on May 1, 2004, Employee or Employee's spouse may purchase said 2000 Honda Accord from the Corporation for One (\$1.00) Dollar.

In witness whereof, the parties to this writing have duly executed this Agreement as of the day and year first written above.

Swift Kennedy & Associates, Inc.

Stephen R. Wolpe

By: _____



Schedule A

Effective date of this agreement: April 30, 2002

Amount of annual salary: Thirty Five Thousand (\$35,000.00) Dollars per year, payable in accordance with the Corporation's normal payroll periods plus commission.

Commission: Employee shall be entitled to receive a fifty (50%) percent commission on the net commission payable to the Corporation on all new business and on renewals of new business (not existing or renewal business that existed prior to May 1, 2002) generated directly by Employee for all new policies written by Employee during the term of this Agreement. Payments to be made to Employee quarterly.

Annual vacation: Ten (10) weeks

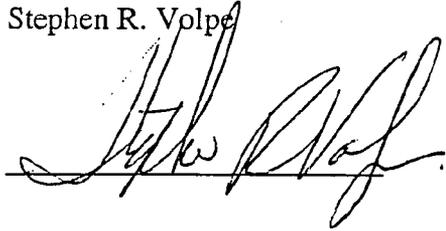
Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue.

Automobile: Corporation shall pay the lease payment on Employee's leased Cadillac automobile until the term of said lease ends. Thereafter, Employer shall provide Employee with an automobile lease allowance of \$700.00 per month that Employee can supplement as Employee so desires.

Swift Kennedy & Associates, Inc.

Stephen R. Volpe

By:  _____

 _____



FIRSTADDENDUM TO STOCK PURCHASE AGREEMENT

THIS ADDENDUM, is made as of the _____ day of April, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, constituting the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

AND

G. Scott Carlson,

AND

Deborah Carlson,

WITNESSETH:

WHEREAS, on March 26, 2002, the parties executed a Stock Purchase Agreement.

WHEREAS, the parties wish to amend the March 26, 2002 Stock Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

Section 3.3 is hereby amended to read as follows:

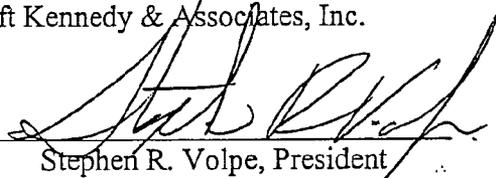
As security for the unpaid balance, G. Scott Carlson and Deborah Carlson, husband and wife, shall execute a personal guarantee to Seller in the full amount of the promissory note. In addition thereto, G. Scott Carlson shall procure a live

insurance policy paying death benefits of Five Hundred Thousand Dollars (\$500,000.00) and shall name Seller as the beneficiary of same. In the event of G. Scott Carlson's death, the death benefit shall be paid to Seller who shall refund any overpayment directly to Deborah Carlson.

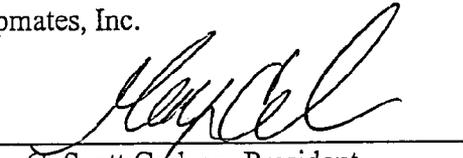
All other provisions of the March 26, 2002 agreement shall remain in full force and effect unless modified by this addendum.

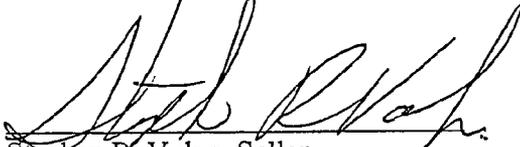
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

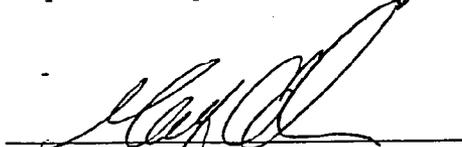
Company:
Swift Kennedy & Associates, Inc.

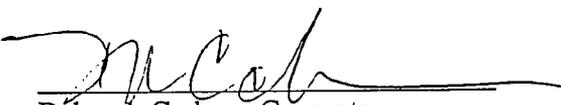
By: 
Stephen R. Volpe, President

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President


Stephen R. Volpe, Seller


G. Scott Carlson, Guarantor


Deborah Carlson, Guarantor



SECOND ADDENDUM TO STOCK PURCHASE AGREEMENT

THIS ADDENDUM, is made as of the 30th day of April, 2002, by and among:

Swift Kennedy & Associates, Inc., a Pennsylvania business corporation with offices at 994 Beaver Drive, DuBois, Pennsylvania (hereinafter referred to as the "Company"),

AND

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania, an adult individual and resident of the Commonwealth of Pennsylvania, being the holder of all the issued and outstanding shares of capital stock of the Company, (hereinafter referred to as the "Seller"),

AND

Helpmates, Inc., a Pennsylvania business corporation, with offices at 225 South Street, Ridgway, Pennsylvania (hereinafter referred to as the "Buyer").

AND

G. Scott Carlson,

AND

Deborah Carlson,

WITNESSETH:

WHEREAS, on March 26, 2002, the parties executed a Stock Purchase Agreement.

WHEREAS, on April ____, 2002, the parties executed a First Addendum to the Stock Purchase Agreement.

WHEREAS, the parties wish to further amend the March 26, 2002 Stock Purchase Agreement set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and intending to be legally bound, the parties hereto do hereby agree as follows:

1. Section 30 is hereby added to read as follows:

In the event Buyer sells, conveys, merges or consolidates Swift Kennedy & Associates, Inc. within ten years of the closing date, Buyer shall pay Seller One Million Dollars (\$1,000,000.00) on the date of transfer.

2. Section 1 of the Employment Agreement shall be amended to read as follows:

During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation at least five (5) hours per week.

3. All other provisions of the March 26, 2002 Stock Purchase Agreement as amended by the First Addendum to the Stock Purchase Agreement shall remain in full force and effect unless modified by this Second Addendum.

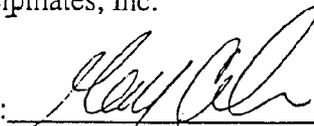
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement on the date first above written.

Company:
Swift Kennedy & Associates, Inc.

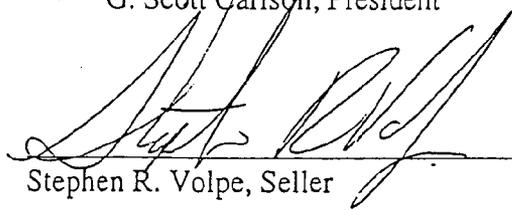
By: 
Stephen R. Volpe, President


G. Scott Carlson, Guarantor

Buyer:
Helpmates, Inc.

By: 
G. Scott Carlson, President


Deborah Carlson, Guarantor


Stephen R. Volpe, Seller



1 **A** Thirteen months in theatre, in combat zone, yes.

2 **Q** When were you returned to -- was that part of
3 Ready Reserve?

4 **A** That was part -- correct, the Reserve component,
5 yes.

6 **Q** When did you leave the theatre to come back to
7 the United States?

8 **A** I left theatre in mid-December.

9 **Q** Of what year?

10 **A** 2004 and I was released from active duty in
11 January of 2005.

12 **Q** What was your rank then?

13 **A** Lieutenant Colonel.

14 **Q** What was your position with Helpmates in 2002?

15 **A** I was the CEO and President.

16 **Q** And who was the owner of the company -- or who
17 owned the stock in the company?

18 **A** Actually, I don't believe I joined the company
19 until 2003, I could be off on the years.

20 **Q** I think you are off.

21 **A** I could be. I thought it was April 1st, 2003.

22 **Q** That you left the company?

23 **A** That I actually came into the company. I'm
24 sorry, that was '93 (sic). You're right, go ahead.

25 **Q** As a part of your duties in 2002, did you have a

1 role in negotiating the acquisition of Swift Kennedy
2 Associates from Steve Volpe?

3 A Correct.

4 Q What was your role in this?

5 A I basically initiated the contact, found the
6 corporation, got to know Mr. Volpe and, in essence, had
7 everything -- negotiated the whole deal.

8 Q Okay. When you were negotiating the whole deal,
9 did you have any -- did you report to the board of directors
10 or the majority stockholder or anything of that nature?

11 A Back when we initially cut the deal, I talked --
12 initially, I talked to Mr. Volpe about buying him out and he
13 agreed to it. At that time I was talking with the board
14 which mostly consisted of my brothers and sisters at that
15 time.

16 Q What about your father, did you discuss the
17 proposed acquisition with your father?

18 A Yes.

19 Q I am going to show you a series of documents and
20 ask you if you can identify them.

21 (Document was marked as Deposition Exhibit No.
22 1.)

23 **BY MR. BELIN:**

24 Q Mr. Carlson, I show you a document that's been
25 marked SC 1 and ask you if you can identify that, please?



1 Q And let me ask you, if I could go here. I am
2 going to direct you to a particular page on this. There is
3 a reference here -- and I am trying to find it as I am going
4 through -- to an employment agreement right in this sales
5 agreement.

6 (Off the record.)

7 **BY MR. BELIN:**

8 Q Paragraph 25 which is on Page 18. Would you
9 look at Section 25.

10 A Uh-huh.

11 Q Was the employment agreement that's attached as
12 an exhibit to this agreement a part of the actual sale?

13 A Yes.

14 Q And when we say it's part of the sale, did you
15 view the salary and benefits to be paid Steve Volpe as a
16 part of the sales price?

17 A As part of the sales price.

18 Q In other words, part of the consideration that
19 was being paid for the company?

20 A When you phrase it like that, the consideration
21 then, yes, it would be because whenever you negotiate this
22 kind of a deal with a corporation that's fairly large,
23 there's a lot of smaller things that usually ride along with
24 these kind of agreements.

25 Q Did you view then that actually what was going

1 here, that the terms and benefits of this was really
2 factoring into your price?

3 A Yes.

4 Q And --

5 A It was -- when you say factoring into the price,
6 it was more of a cost to get the deal done, if that makes
7 sense.

8 Q So in other words, let me ask you this, put it
9 another way, had you not entered into such a contract with
10 Steve Volpe, do you believe you would have bought the
11 business?

12 A No.

13 Q So the terms and conditions of that employment
14 agreement were necessary parts and parcel to this to
15 complete the deal?

16 A Correct.

17 Q Was there any great discussion with regard to
18 the employment agreement as to the time and services that
19 Steve was going to render to the company?

20 A Again, this was quite a few years ago, but it
21 was written into there that he would perform duties so many
22 hours a week and that he would, in essence, help keep up the
23 customers that were already in the corporation. I will
24 elaborate a little bit more, if that's not what you are
25 looking for.

1 Q Let's go back to the employment agreement which
2 appears to be on Page 31.

3 A Okay.

4 Q Look at Paragraph 1. What did you and Steve
5 discuss with regard to the formulation of Paragraph 1?

6 A What my intent was on that is that he be there
7 for so many hours basically as, hey, things hadn't changed
8 in the corporation since the sale, so there wasn't a visible
9 outright change. And that as everything went along, his
10 hours reduced down and that's why you see it decreasing here
11 on an average.

12 Q And was then the primary role that you thought
13 Steve was going to play in this that of a mentor?

14 A Correct.

15 Q By the way, did you have -- did you hire anybody
16 else at that time to assist you in the operation of SKA?

17 A Jerry Calistri.

18 Q Do you have a recollection of when he was hired?

19 A I am going to have to kind of best guess this.

20 Q That's all right.

21 A I am assuming he was hired -- well, actually, if
22 I remember correctly, he was hired a month or two before the
23 sales acquisition.

24 Q How did you meet Calistri?

25 A Through Mr. Volpe.

1 Q And what did Steve indicate to you about
2 Calistri?

3 A That he was very good in the sales -- he really
4 knew his -- very good in the sales as far as the insurance
5 business, had a good head on his shoulders, had good
6 contacts, that in essence he was a very good person to kind
7 of pick up and run Swift Kennedy.

8 Q Did Steve indicate to you whether or not he had
9 a good relationship with Calistri?

10 A They had a very good relationship. As a matter
11 of fact, Mr. Calistri was looking at possibly buying Swift
12 Kennedy -- as in they were looking at doing a deal between
13 those two initially -- and that Mr. Calistri would in
14 essence come in, take over Swift Kennedy, and possibly do
15 some kind of buyout, but that was a deal that I heard them
16 talking about and that's before I seriously came on line.

17 Q Okay. How did you -- I am curious, in looking
18 to this employment agreement, how did you and Steve arrive
19 at a salary for this?

20 A At that time, the numbers for Swift Kennedy were
21 showing as roughly netting around 400,000 a year and to keep
22 him in and working these 30 hours and dwindling it down, the
23 original intent was he would get some type of salary and
24 then it would reduce down as we got to the bottom.

25 Q Refer to Schedule A at Page 36, will you,

1 please? If you will look there where it references the
2 salary; was that negotiated right along with the sale?

3 A Again, it was part of doing business to
4 accomplish the sale, yes.

5 Q So I mean, you negotiated this 35,000 right
6 along with the sales price?

7 A Uh-huh. With the intent that as the five year
8 period drew down, the salary would draw down as the work
9 hours drew down in here.

10 Q Okay. Did you anticipate when you signed this
11 agreement with Steve that he was going to become just a
12 salesman for the company?

13 A When you say "just a salesman", elaborate a
14 little bit more. There's varying degrees there.

15 Q I believe you said in your earlier testimony
16 that his principal duty in your mind was to be that of a
17 mentor to Calistri.

18 A Correct. And also go around and help him keep
19 the major accounts that we have and that if he -- at the end
20 of everything, if he wanted to go out and sell business,
21 that he could do that.

22 Q Were you making that part of a duty of him to go
23 out and sell, as opposed to maintaining what you had?

24 A That wasn't the intent.

25 (Document was marked as Deposition Exhibit No.



12 **Q** Then if you notice benefits, it talks about
13 normal health insurance benefits be maintained until the
14 employee's spouse reaches an age which would qualify them
15 for Medicare.

16 **A** Correct.

17 **Q** Now, that's actually going to extend beyond the
18 five-year period.

19 **A** That particular piece, yes.

20 **Q** And was that an essential part of the sales
21 agreement, that you would continue to cover Steve and his
22 wife until they reached Medicare age?

23 **A** Very much so. And I saw a couple of other deals
24 between other people in other corporations and I have seen
25 that in there before.

1 Q So what you are saying here is that this
2 particular benefit is not a typical benefit for employment
3 agreements, is it -- if you know?

4 A Not for the employment agreement. I think this
5 would more fall under a -- the umbrella of helping the
6 entire deal get done which would make it fall under probably
7 the --

8 Q Sales agreement?

9 A -- sales agreement.

10 Q So in your mind the reason for this is that
11 Steve was insisting that he and his wife be covered by
12 health insurance until -- right now it's 65 for Medicare,
13 but that was a part of the actual sales agreement; is that
14 correct?

15 A Would fall under that umbrella.



- 22 Q. Were you familiar with the issue regarding
23 the Swift Kennedy Financial property and casualty
24 commissions?
25 A. Commission structures?

1 Q. Yes. In other words, were you familiar
2 with the fact that Swift Kennedy Financial, which is a
3 property casualty company, had received certain leads
4 or whatever from Mr. Volpe as a result of which
5 commissions were being earned?

6 A. Yes, I am assuming that. I would assume
7 so, with the relationship he had with them, yes.

8 Q. Were you aware of the fact that the sales
9 agreement purportedly only applied to health insurance
10 commissions?

11 A. Yes.

12 Q. And that as a result of that, that these
13 property and casualty which were paid over to Swift
14 Kennedy and Associates, actually belonged to Steve
15 Volpe?

16 A. Okay, yes.

17 Q. Were you aware of that?

18 A. Yeah. At first I wasn't.

19 Q. But you became aware of that; did you not?

20 A. Yes.

21 Q. And were you aware of the fact that
22 Mr. Volpe had a claim for these commissions from the
23 time -- I guess it would be like May of '02 through
24 the time they were paid? Were you aware of that?

25 A. That's the issue -- we had a couple

1 different issues on commission. But yeah, I was aware
2 there was a problem with the commissions.

3 Q. Were you aware that, in fact, Helpmates,
4 or Swift Kennedy, whichever the case may be, indeed
5 was indebted to Steve for the payment of these
6 commissions?

7 A. Yeah.

8 Q. Were they ever paid?

9 A. I don't recall. I know there was -- I am
10 getting this kind of confused with the balance of what
11 was owed to Steve after the sale. I can't answer
12 that. I don't know they were paid or not. I don't
13 recollect.

14 (Marked Moline Exhibit 5.)

15 BY MR. BELIN:

16 Q. Mr. Moline, I show you Moline 5 and ask
17 you if you would have seen that.

18 A. (Examining). I do remember this, yes.

19 Q. Now, obviously, if you look to the last
20 paragraph, if you read that, obviously, that the
21 commissions owed Steve would have only been those that
22 he referred to Swift Kennedy Financial; is that
23 correct?

24 A. (Witness nods head affirmatively.)

25 Q. And there is a suggestion here from Jerry

1 in this thing that there was a referral by someone
2 else. Do you know who that someone else was?

3 A. Where do you see that, sir?

4 Q. Look to the last full paragraph, if you
5 will.

6 A. Okay. I have no idea who that was.

7 Q. Don't know?

8 A. No.

9 Q. To your knowledge, then, this account, the
10 balance due, whatever that balance might be, was never
11 paid to Steve?

12 A. To my knowledge, I can't honestly say yes
13 or no.

14 Q. You don't know?

15 A. I am not sure. I don't believe it was,
16 sir.



- 16 Q. Now, in the second sentence, it does
17 suggest that the stock-to-asset sale involved an
18 additional amount?
- 19 A. Correct.
- 20 Q. Now, were you familiar with or did you
21 learn of the basis for that account?
- 22 A. Yes.
- 23 Q. Would you tell me what it was that
24 generated an amount owing to Steve in that respect?
- 25 A. It had to do with his income tax, and

1 acceleration to claim, the sale of the business, I
2 believe.

3 Q. In other words --

4 A. Or the tax consequences.

5 Q. -- when Helpmates originally bought the
6 business, it was a stock sale?

7 A. Yes.

8 Q. Which would be, from a tax point of view,
9 disadvantageous to Helpmates?

10 A. Yes.

11 Q. And Steve changed it to an asset sale?

12 A. Yes.

13 Q. Which was more advantageous to Helpmates?

14 A. Yes.

15 Q. And as a result, there was additional
16 income tax incurred by Steve?

17 A. Yes.

18 Q. What you were going to do was pay him for
19 that was involved in that change?

20 A. Yes.





HELPMATES, INC.

Home Health Care Agency

225 South Street
Ridgway, PA 15853

Phone: (814) 772-6850

Fax: (814) 772-6851

Mr. Steve Volpe
1017 Green Glenn Drive
Dubois, PA 15801

December 30, 2002

Dear Steve,

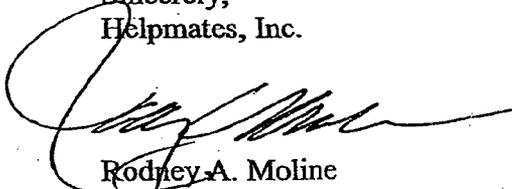
Please find enclosed a check in the sum of \$37,935.08, which represents the balance owed on the sale of Swift Kennedy & Associates, Inc. to Helpmates, Inc. This amount has been determined by our accounting firm Clyde, Ferraro, & Co. and has been reviewed by your accountant Larry Gabler.

Also please be advised that an additional amount owed to you for changing the sale status ~~<stock to asset>~~ will be forthcoming once we have confirmed all the correct deductions.

If you have any questions please contact me at your convenience.

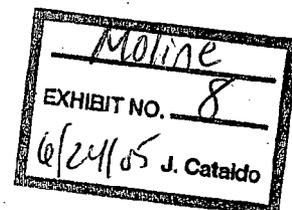
Wishing you and your family a Happy New Year.

Sincerely,
Helpmates, Inc.



Rodney A. Moline
President/CEO

RAM/gal





12 Q. Do you have any knowledge as to the basis
13 of the suggestion that there were undisclosed
14 liabilities that were referred to in the pleadings
15 that you signed? Do you have any personal knowledge
16 as to the sources of this undisclosed liability?

17 A. Yes.

18 Q. Who would it be, please?

19 A. Greenheisen (phonetic).

20 Q. Can you describe for me what the
21 Greenheisen liability was, please?

22 A. My best recollection, I was not involved
23 directly with him. It was an agreement that he and
24 Steve had about Steve purchasing his book of business.

25 Q. My understanding is Greenheisen was one of

1 the brokers?

2 A. That's correct.

3 Q. And you had a broker relationship with --
4 that continued on through the purchase by Helpmates,
5 correct?

6 A. Yes.

7 Q. Was there, in fact, an agreement by SKA --
8 when I say SKA, I mean the SKA that preexisted the
9 sale and continued after the sale -- was there an
10 agreement to buy this man's book?

11 A. According to -- I don't know if it was
12 Doug, that he and Steve made this verbal agreement
13 that he was going to buy it for a sum of money. I
14 don't recall what the sum was, at a certain time.

15 Q. Did Jerry Calistri have any discussion
16 with you as to the advice given by Steve to Jerry with
17 regard to Greenheisen?

18 A. I don't recall.

19 Q. Do you remember the year that the
20 Greenheisen issue arose?

21 A. No, I don't remember the year.

22 Q. You provided e-mails. I would like you to
23 review these e-mails. I am not going to ask you to
24 read them as much as I am going to ask you to look at
25 the date of these e-mails. That's the file provided

1 by counsel.

2 A. Do you want me to look at all of them?

3 Q. Just the date so you can familiarize
4 yourself with the general date.

5 A. (Examining). Okay.

6 Q. By the way, I am going to show you two
7 others that were also supplied in the interrogatories,
8 just as to dates. What year did this issue arise?

9 A. '03. That's when the correspondence
10 started, according to this.

11 Q. When you learned of this, was there any
12 notice given under the contract to Steve that, in
13 fact, you considered this an undisclosed liability?

14 A. Are you asking if I did?

15 Q. To your knowledge, was it done?

16 A. with No.

17 Q. Now, there was one other reference. Do
18 you have any other references of undisclosed
19 liabilities that you were concerned about?

20 A. Yes.

21 Q. Who would that be?

22 A. Swift Kennedy Financial.

23 Q. Is it possibly Swift Kennedy Insurance?

24 A. Financial, Jim Curtis.

25 Q. Let me show you that. I am not confusing

1 you. I am telling you, if you quickly look at that
2 and the Curtis letter.

3 A. I am familiar with this.

4 Q. You say this was Swift Kennedy Financial,
5 just so I am sure.

6 A. Yes.

7 Q. When did that arise?

8 A. The date of the -- (examining) May of '04.

9 Q. Read the first sentence, if you will, of
10 that letter.

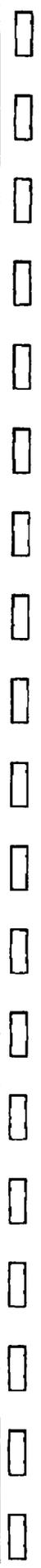
11 A. Okay.

12 Q. Does that letter indicate that the actual
13 knowledge of the problem with regard to the
14 commissions occurred sometime earlier?

15 A. Yes.

16 Q. To your knowledge, was any notice given
17 under the contract with regard to these liabilities?

18 A. To my knowledge, no.



15 Q. My understanding is that in your Answer to
16 New Matter and Counterclaim, you suggested that there
17 were certain undisclosed liabilities that Volpe had at
18 the time of the sale which were not disclosed to you
19 people, as a result of which you encountered some
20 damages. I am summarizing that. Is that correct?

21 A. Yes.

22 Q. I want to ask you something, sir. The
23 basis for this liability would be Paragraph 5.8 of the
24 contract; isn't that right?

25 A. Uh-huh, yes.

1 Q. If you go down, if you will, for me and
2 just read to yourself the second to the last paragraph
3 which gives you the right of offset. Do you know
4 where it starts, The right of offset shall apply?

5 A. Yes, sir, I do, okay.

6 Q. Read that entire sentence to yourself.

7 A. Okay.

8 Q. I am going to ask you, also, if you will,
9 to refer to Paragraph 19 which is found on page 17.

10 A. All right.

11 Q. Just read the lead-in to that regarding
12 notice.

13 A. (Examining). Okay.

14 Q. Now, sir, to your knowledge, was any
15 notice ever given, in accordance with this contract,
16 of undisclosed liabilities to Volpe and his attorney?

17 A. I didn't.



11 Q. In there, there is a suggestion that Volpe
12 had failed to disclose certain liabilities. Were you
13 aware of that, or did you participate in that?

14 A. Yes, I did.

15 Q. Who were those undisclosed liabilities, if
16 you will?

17 A. I think the first one was an issue that
18 had taken place shortly after the purchase. His name
19 was Doug Greenheisen. Doug and Steve had an
20 agreement -- a verbal, nothing in writing -- that
21 Steve was going to purchase his book of business; that
22 Doug was not interested in selling in that area; that
23 he was moving to Maryland or somewhere down south. We
24 had to --

25 Q. You found out about that apparently with

1 Greenheisen shortly after the sale, right?

2 A. Shortly after the sale.

3 Q. That would have been like in '02 maybe?

4 A. I am not sure of the specific date, but
5 shortly after the sale.

6 Q. Were you aware that in the sale that there
7 was a paragraph that dealt with undisclosed
8 liabilities? I ask you to pick up JC-1 again and
9 look. Let me address you to where that appears in the
10 agreement. If you will look on page 5.8, if you look
11 at the last two sentences, it gives Swift Kennedy, the
12 right to offset?

13 A. Okay.

14 Q. Do you notice there it says that provided
15 buyer -- meaning the new Swift Kennedy or Helpmates --
16 immediately notify seller of undisclosed liabilities
17 within ten days of learning, and the failure to modify
18 would bar -- if you go back to Paragraph 19 on page
19 17.

20 A. Okay.

21 Q. If you will read there, it says that the
22 notices under this contract have to be given in
23 writing by registered, certified or overnight mail,
24 addressed to the various parties shown here.

25 Were any notices ever given regarding

1 Greenheisen under the contract?

2 A. From my end, no. I don't recall providing
3 that.

4 Q. Now, what was the other undisclosed
5 liability other than Greenheisen, if you know?

6 A. The other undisclosed liability was James
7 Curtis, the president of Swift Kennedy Financial.
8 There was a commission issue that was ongoing with
9 commissions that were back and forth between the two
10 companies.

11 Q. I am not going to mark this as an
12 exhibit. Let me just show you a letter and ask you:
13 Is this dealing with apparently an ongoing issue
14 regarding commissions?

15 A. Yes -- That's correct.

16 Q. Yes. That letter is May 14 of '04, correct?

17 A. Correct.

18 Q. This letter suggests, at least in the
19 first paragraph, that there had been ongoing
20 discussions about this?

21 A. Yeah. Between Swift Kennedy & Associates
22 and Swift Kennedy Financial, it was always -- it was
23 an ongoing --

24 Q. This was an ongoing thing all the time?

25 A. Yeah.

1 Q. At any time at any point was Volpe given
2 notice under the contract that you people considered
3 this an undisclosed liability?

4 A. This I supplied to the attorney at this
5 point. This is in May. I did not send this over to
6 Steve, no.

7 Q. What I am saying, was Steve ever given
8 notice of this under the --

9 A. Not through me.

10 Q. -- requirements of the contract?

11 A. Not through me.



17 Q. There was, throughout this, a suggestion
18 or allegations in your counterclaim that Steve Volpe
19 had -- I am going to use the language -- bad-mouthed
20 SKA to third parties?

21 A. Uh-huh.

22 Q. Do you have personal knowledge of
23 bad-mouthing of Steve to other people?

24 A. What do you mean by "personal knowledge,"
25 sir? Did I hear people?

- 1 Q. Did you hear people --
- 2 A. Did people come to me and tell me?
- 3 Q. Yes.
- 4 A. That heard Steve?
- 5 Q. Yes.
- 6 A. They did not. I heard it through our
7 employees.
- 8 Q. That's what I am trying to get, your
9 personal knowledge. You have no personal knowledge of
10 bad-mouthing?
- 11 A. Other than what was told to me by
12 Mr. Calistri from other sources.
- 13 Q. You found out from Calistri?
- 14 A. Yes.
- 15 Q. Do you have any knowledge -- there was
16 another thing -- I am going to use the language --
17 that there was disparagement made and false statements
18 made by Steve to third parties regarding SKA. Do you
19 have any knowledge of disparagement made or false
20 statements made to third parties regarding SKA?
- 21 A. Just what was told by Jerry.
- 22 Q. So no personal knowledge as to third
23 parties?
- 24 A. (Witness shakes head negatively.)
- 25 Q. Yes?

1 A. Yes, no.

2 Q. Let me ask it again. Mr. Moline, do you
3 have any personal knowledge of disparaging or false
4 statements being made by Steve Volpe to third parties?

5 A. No.



20 Q. Do you have any personal knowledge of
21 Volpe bad-mouthing and disparaging SKA and Helpmates
22 to the community at large?

23 A. Like I say, I had heard nothing directly,
24 no.



7 By this time, we were getting feedback
8 from people in the community that Steve was not happy
9 with the judge's decision for him to work.

10 Q. Did you receive this feedback directly?

11 A. In a couple cases, yes, sir.

12 Q. Who were they?

13 A. The first one that I can recall was a
14 friend of Steve's that owns Korb Monuments. I believe
15 he was listed in depositions as somebody that Steve
16 spoke to about this.

17 Q. What was his name?

18 A. Joe Korb.

19 Q. When did you meet with Korb?

20 A. It was at a retirement party for Frank
21 Anderson who retired from the Swift Kennedy group. He
22 was president of the group.

23 Q. What did Joe say specifically to you?

24 A. Just that Steve was talking to him about
25 the agreement, that there were some legal issues; that

1 he had to go back to work and work full time, and he
2 wasn't happy about it.

3 Q. None of that was untrue, was it? I mean,
4 that is what the deal was; that's what Judge Reilly
5 indicated, isn't it?

6 A. That's correct.

7 Q. He was just saying he was unhappy with the
8 judge's decision?

9 A. I didn't press Mr. Korb.

10 Q. What did he say?

11 A. He just said that Steve was not happy
12 about the decision. Mr. Korb's response was, Nobody
13 is going to win in this battle; just settle and be
14 done with it.

15 Q. Who else?

16 A. The second one was another friend of
17 Steve's, Dalph McNeil.

18 Q. Where did you meet him?

19 A. I golfed with him at a UPMC outing where
20 brokers can invite their clients.

21 Q. What was said there?

22 A. The first time that I actually met and
23 spoke with Dalph, on the way down to the practice tee
24 he said, How are things with you and Steve, or the
25 company and Steve? I said, Well, what are you

1 referring to? He said, Well, I understand there is
2 some litigation going on, and Steve isn't happy with
3 it. I said, There are some things going on, but
4 hopefully we will be able to resolve it and create a
5 win-win situation for both parties.

6 Dalph acknowledged sometimes things end up
7 in legal battles. He felt I was unfortunate for us
8 and for Steve. I didn't ask him to elaborate on it
9 because of the fact I was trying to defuse a situation
10 at that point.

11 Still at that point, Mr. Belin, I thought
12 we were going to be able to have some sort of
13 resolution.

14 Q. There wasn't any suggestion that Steve had
15 said that your position was unfair or extreme or
16 anything of that nature, was there?

17 A. I can't recall verbatim what they said.

18 Q. Have you given me in your earlier
19 testimony essentially what you remember of the
20 conversation?

21 A. Essentially what I remember, correct.

22 Q. But as I am saying, none of that
23 conversation suggests that he was bad-mouthing Swift
24 Kennedy, is there?

25 A. Well, I think it was affecting the

1 relationship between Swift Kennedy and his clients.

2 Maybe it was my --

3 Q. That isn't what I said. I asked you, did
4 either of the conversations constitute any
5 bad-mouthing by Steve of Swift Kennedy?

6 A. That, I am unsure of.

7 Q. You know what bad-mouthing is. If I talk
8 about you in a derogatory manner, wouldn't you agree
9 with me that's bad-mouthing?

10 A. I would agree that's bad-mouthing.

11 Q. Did that occur in either conversation?

12 A. I don't know if they would have shared
13 that information because they were friends of Steve's.

14 Q. Let me go back a minute. I am asking you,
15 did anything that they say indicate to you that Steve
16 had bad-mouthed SKA?

17 A. Not to my recollection, no.

18 Q. Now, were there any others besides Korb
19 and McNeil?

20 A. There was an incident with Highmark.

21 Q. You had?

22 A. Yes, I had with Highmark.

23 Q. Tell me about that.

24 A. Shortly after Steve's suspension, he was
25 invited to a DRMC golf outing by the Highmark reps.

1 After the golf outing, the folks from Highmark came
2 over and apologized and said they had no idea what was
3 going on between Steve and Swift Kennedy & Associates,
4 and they apologized to us for inviting Steve to play
5 golf with them.

6 Q. At that point nobody knew he had been
7 suspended and in a sense wasn't with SKA; is that
8 right? Isn't that what they were saying? They were
9 apologizing to you for having invited him, not
10 realizing he wasn't a part of SKA? Isn't that
11 essentially what it has?

12 A. They invited him not knowing, correct.

13 Q. Was there any suggestion that he
14 bad-mouthed SKA?

15 A. Steve Again, being the largest vendor, we tried
16 to diffuse the situation.

17 Q. Was there any indication from them to you
18 that he bad-mouthed SKA?

19 A. By their response -- and they
20 apologized -- they said he said he was being treated
21 unfairly. I would think that would be something --

22 Q. Let me ask you. What did they say to you
23 again? Let me get the conversation that somebody come
24 over. Tell me your best recollection.

25 A. They came over and apologized to myself,

1 and Rod Moline was there as well. Right after the
2 golf outing, they came over and apologized. They had
3 no idea what was going on between Steve and Swift
4 Kennedy & Associates.

5 Q. Is that what they said?

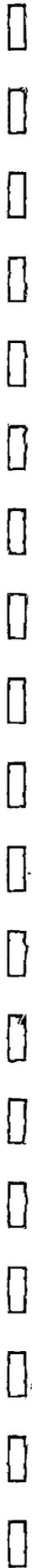
6 A. That's what they said.

7 Q. Does that suggest to you that there was
8 any bad-mouthing?

9 A. At this point, I would say no.

10 Q. Was there anybody else?

11 A. Those are the three that I had direct
12 conversations with.



4 Q. Is there an indication that Steve caused
5 him to change brokers?

6 A. Well, I was a little suspicious when they
7 showed up at lunch 20 minutes later, but I don't have
8 proof of that.

9 Q. So you have no knowledge of any connection
10 between Pfingstler changing brokers and Steve Volpe; is
11 that correct?

12 A. Well, he said he was changing because Steve
13 was no longer involved.

14 Q. No, no. That wasn't what I asked you,
15 ma'am. Listen to me.

16 A. Okay.

17 Q. From your own knowledge, is there anything
18 that Pfingstler told you that Steve Volpe was the cause
19 of him changing brokers?

20 A. He said since he was no longer there.

21 Q. I didn't ask you that. I didn't ask you
22 that he since he is not there. Did he tell you that
23 Steve Volpe told him to change brokers?

24 A. No.

25 Q. Did he tell you anything that Steve Volpe

1 had suggested to him that caused him to change brokers?

2 A. No.

3 Q. Now, moving on to Highmark, and it looks to
4 me down here you were talking about -- you were asked
5 by a Mr. Rembisz that he asked who owns Swift Kennedy &
6 Associates?

7 A. (Witness nods head affirmatively.)

8 Q. I presume you told him?

9 A. Helpmates.

10 Q. Okay. He was unaware -- this is May 9,
11 2003, he is suggesting that he didn't even know you had
12 a new management team; is that correct?

13 A. (Witness nods head affirmatively.)

14 Q. And he was unhappy that their sales rep
15 hadn't been notified; is that correct?

16 A. Uh-huh.

17 MR. BEARD: If you can verbalize your
18 answers so the record doesn't pick up a nod of the
19 head.

20 THE WITNESS: I am sorry.

21 BY MR. BELIN:

22 Q. Was there anything there that Highmark said
23 that Volpe had told them that caused them to be
24 unhappy?

25 A. They were upset that they weren't notified

1 of the sale of the business.

2 Q. But you didn't know whose responsibility it
3 was to notify?

4 A. No, I don't.

5 Q. That had nothing to do with Volpe causing
6 him problems himself, was it?

7 A. Well --

8 Q. Was it?

9 A. I have to remember why he was mad.

10 Q. If you made all the drafts you told me you
11 made, presumably everything is in here, isn't it?

12 A. Yeah, but he was upset because he wasn't
13 aware of Steve's -- whatever Steve's situation was
14 within the agency. That's just a personal --

15 Q. But there wasn't anything there that
16 reflected on Steve vis-a-vis Blue Cross/Blue Shield,
17 was there?

18 A. I am not sure about that.

19 Q. Do you remember of your own knowledge,
20 ma'am? That's what I am really after.

21 A. We were put on probation by Highmark.

22 Q. For what?

23 A. For having accounts that were noncompliant,
24 and we were put on a watch list.

25 Q. What does that have to do with this?

1 A. It was an account that were written before
2 I got there.

3 Q. Pardon me, ma'am. Let me stay on point.

4 A. Okay.

5 Q. I asked you about this paragraph right here
6 that you put in the memorandum. That has nothing
7 whatsoever to do with being on probation, does it?

8 A. (Examining.)

9 Q. Take time and read it.

10 A. I am going to read it. (Reading). This
11 one pertains to the fact that he wasn't aware of the
12 new management team, but it had nothing to do with
13 anything that Steve had done vis-a-vis Blue Cross/Blue
14 Shield. That was discussed at the meeting, but that's
15 not what the letter says. It doesn't say it in the
16 letter.

17 Q. Let's move on to Lee Simpson.

18 A. Okay.

19 Q. Lee Simpson suggests that she -- that's
20 Mrs. Nausiti's wife. Where did you learn that from?

21 A. He told when I was standing there. That's
22 what I am saying in this. He took me outside.

23 Q. What did he say to you?

24 A. He really needed to know what was going on
25 with the agency, because according to Mr. Nausiti's

1 wife, who represents Mr. Volpe's real estate, she
2 informed her husband that Mr. Volpe was very
3 dissatisfied with the agency because of the required
4 work hours.

5 Q. Okay. Let me ask you, did he indicate to
6 you that that comment had any effect on his
7 relationship with Swift Kennedy?

8 A. No.

9 Q. Did he suggest to you that because of that
10 statement, that he was going to change insurance
11 companies?

12 A. No.

13 Q. Now, let's go to the next page. You were
14 asked by Jerry to take care of another house account to
15 Developac. Now, what did Steve Volpe do here that
16 somehow or other impacted this account?

17 A. He called Jerry and told Jerry that
18 Mr. Varacallo was unhappy that I rescheduled an
19 employee meeting.

20 Q. Who told Jerry?

21 A. Steve told Jerry that Mr. Varacallo was
22 unhappy with me because I rescheduled an employee
23 meeting.

24 Q. In other words, he was unhappy that you
25 didn't show up for a meeting?

1 A. I rescheduled.

2 Q. Did you, in fact, reschedule a meeting?

3 A. Yes, I did.

4 Q. Other than that, did Volpe do anything else
5 to create a problem with regard to Developac?

6 A. Not that I am aware of.

7 Q. Now, you said here that the sale of the
8 business that has been discussed by Volpe among the
9 community as a negative transaction. Who?

10 A. Well, Mrs. Nausiti, and there have been
11 some other individuals in the community. I don't know
12 if you want me to name them.

13 Q. I sure do.

14 A. Joe Palumbo (phonetic).

15 Q. Did you talk to Joe?

16 A. He talked to our office several times. I
17 had to actually call and get in the middle of that one.

18 Q. What did he call about? How was it
19 that -- was Steve Volpe's name mentioned in the
20 conversation?

21 A. Yes, it was. Sandy Gordon handled most of
22 it. I really can't remember all of it. I just know
23 that it was.

24 Q. Did you talk to Joe that day?

25 A. I had called him. I don't know if I ever

1 reached him.

2 Q. So in other words --

3 A. It was brought to my attention.

4 Q. It wasn't your personal knowledge?

5 A. Sandy brought it to me. She didn't know
6 what to do.

7 Q. You didn't talk to Joe?

8 A. I don't think I did.

9 Q. Who else was besides Joe?

10 A. Mr. Nausiti.

11 Q. Who else?

12 A. Some of my peers had asked me about it.

13 Q. Peers at -- who are your peers?

14 A. Well, some of the people I have worked with
15 in the past had heard about it.

16 Q. I heard about what?

17 A. That Steve was unhappy.

18 Q. How did they know Steve was unhappy?

19 A. I don't know. They asked me about it. I
20 don't know how they found out.

21 Q. They asked you about it?

22 A. Yes.

23 Q. So there was nothing directly from Steve to
24 them? They weren't telling you any communication,
25 conversations, they had with Steve? Am I to understand

1 that?

2 A. That's correct.

3 Q. So what you are talking about was they were
4 telling you that they heard, that Steve was unhappy or
5 words to that effect; is that right?

6 A. Yes.

7 Q. So it might have even been hearsay to them?

8 A. I don't know.

9 Q. Did you ever say to them that, hey, did
10 Steve talk to you?

11 A. No. I acted like I didn't know anything.

12 Q. In other words, what you are telling me,
13 ma'am, is that you don't know whether Steve talked to
14 these people or they heard it on the street?

15 A. I know he talked to Mrs. Nausiti.

16 Q. Other than Mrs. Nausiti, anybody else?

17 A. Not that I can recall right now.



23 Q. Pardon me, ma'am. Answer my question. Did
24 he say anything at that meeting that Steve was
25 responsible for the problem you have here?

1 MR. BEARD: If I could, if you can't
2 remember if he said anything or not, you can say "I
3 don't remember."

4 THE WITNESS: I don't remember.

5 BY MR. BELIN:

6 Q. Did he say anything that Steve had caused
7 the problems that you were facing at that meeting?

8 A. I don't remember.

9 Q. Let's move on down to profitability. Did
10 he suggest they were going to take a look at your
11 overall book with Blue Cross/Blue Shield to determine
12 how profitable it was?

13 A. I can't remember.

14 Q. Do you know whether or not an analysis was
15 ever made by Blue Cross/Blue Shield with regard to
16 Swift Kennedy?

17 A. They audited our agency, yes.

18 Q. Other than auditing the agency, was there
19 anything else done?

20 A. We had to submit a plan to them, an agency
21 plan.

22 Q. Was the plan accepted?

23 A. I don't --

24 Q. Are you still doing business with them?

25 A. Yes.

- 1 Q. Are you still on the watch list?
- 2 A. I believe -- I don't know.
- 3 Q. You don't know?
- 4 A. Not officially, I don't know.
- 5 Q. Unofficially do you know?
- 6 A. No, actually, I don't. We hope we are not.



17 Q. You received a call from Nausiti on August
18 the 6th --

19 A. October.

20 Q. Informing you that he was assigning the
21 Matson Agency as broker for their account. Did
22 Mr. Nausiti ever indicate to you that the change of the
23 Matson Insurance Agency as broker was the result of
24 Steve?

25 A. No.

1 Q. Did he ever indicate to you that he had
2 reviewed this because of anything that Steve had done?

3 A. Reviewed it?

4 Q. Did he ever tell you that he had reviewed
5 the status of the account with SKA because of Steve
6 Volpe?

7 A. Reviewed the status?

8 Q. You were broker of record in August; were
9 you not?

10 A. Yes.

11 Q. Between August and October did he ever
12 indicate to you that he was reconsidering the status of
13 SKA as broker because of Steve Volpe?

14 A. No.

15 Q. You made a statement in here that Volpe
16 negatively impacted it and became volatile. Did you
17 get that information from Mr. Nausiti?

18 A. No, that was my own --

19 Q. That was your impression; is that correct?

20 A. Yes.

21 Q. It's not because of anything that anybody
22 told you; is that correct?

23 A. Told me what?

24 Q. That anybody -- Nausiti or Lee Simpson
25 told you that caused them to change their broker of

1 record?

2 A. Lee -- or Ed confronted me and asked me --
3 in my prior e-mail.

4 Q. I understand, but that is when you still
5 had the account?

6 A. While I still had it?

7 Q. While you were still broker of record.
8 When I say "you," I mean SKA.

9 A. Yes.

10 Q. Was there anything that Lee Simpson told
11 you that led you to conclude in this TJ-12 that the
12 doubt created by Volpe caused the account to be changed
13 from SKA to Matson Insurance Agency?

14 A. Well, when he said at this time that he
15 really needed to know what was going on in the agency
16 in August, I believe that's why.

17 Q. He didn't say anything at that time
18 regarding Steve Volpe had told him something that he
19 should leave you and go to Matson, did he?

20 A. No.

21 Q. So you were inferring from what was being
22 said in the statement that you made here about
23 negatively impacting the account and that was the
24 reason you lost it?

25 A. Correct.

1 Q. It's not because anything anybody ever told
2 you that allowed to you reach that conclusion?

3 A. He stated that he wanted to know what was
4 going on in the agency.

5 Q. Did you tell him?

6 A. I said that there was a contract, and that
7 I -- that Steve signed a contract, and that -- whatever
8 I said in here. I don't remember. I did not get into
9 it.

10 Q. Let's go back and look at it.

11 A. It said, "At this time he stated that he
12 really needed to know what was going on in the agency.
13 According to Mr. Nausiti's wife, whom represents
14 Mr. Volpe's real estate, she informed her husband that
15 Mr. Volpe was very dissatisfied at the agency because
16 of the required work hours. This time I was prepared.
17 I stated that Mr. Volpe sold the business, signed a
18 contract, and the new owners were expecting him to
19 abide by contract." That's all that was said.

20 Q. Was there anything else said that led this
21 man to change from SKA to Matson that was related to
22 Steve Volpe?

23 A. No.

24 Q. So what you are really saying here is that
25 the statement that was made in TJ-12, that "Because

1 Mr. Volpe negatively impacted this account it became
2 volatile. Consequently, the doubt created by Mr. Volpe
3 allowed the account to be penetrated by another agent"
4 was really your impression?

5 A. It's what I believe.

6 Q. That's the same thing as an impression,
7 ma'am. What I am saying is, it was your belief. It
8 wasn't based on anything anybody told you; is that
9 correct?

10 A. Based on what Mr. Nausiti told me, I
11 believed that that is why the account was lost.

12 Q. Did you ever go back and say, Why did you
13 change the account?

14 A. There was a board. I had to meet with
15 seven or eight of them.

16 Q. ~~ed.~~ No, no, no. Did you ever go back to Lee
17 Simpson and say, Gee, guys why did we lose the account?

18 A. There were seven or eight that made the
19 decision. It wasn't really Ed's decision to do this.
20 There were seven or eight people on the board.

21 Q. Well, doesn't that mean that perhaps there
22 were other people -- did you hear what you call this
23 comment that was made by Ed Nausiti's wife from the
24 other six or seven men that were making the decision?

25 A. I heard it from him, the president. He

1 took me outside.

2 Q. Anybody else?

3 A. No.

4 Q. He took you outside at the meeting with the
5 six or seven people? What did he tell you?

6 A. He asked me what was going on.

7 Q. Was that the meeting that they had changed
8 the broker of record?

9 A. That was the record where we were reviewing
10 their renewal alternatives.

11 Q. Am I understand from that then, was there
12 any indication that the other people even knew about
13 this remark of Nausiti's wife?

14 A. I don't know.

15 Q. And am I to understand from that that
16 Nausiti is only one of seven board of directors that
17 were going to make the decision?

18 A. I don't think they are board of directors.

19 Q. Officers, whatever.

20 A. Would you rephrase that?

21 Q. Am I to understand what you just said, that
22 Nausiti was one of six or seven people that were going
23 to make this decision?

24 A. Yes.

25 Q. Did you ever go back after you learned that

1 Matson was going to become the broker of record to find
2 out why Lee Simpson changed from Swift Kennedy to
3 Matson?

4 A. I asked Ed if we could do anything, quote
5 it again and call them -- or when he called me. He
6 said that, yes, we could quote it again, and that they
7 had placed it with Matson's.

8 Q. Did he tell you why they placed it with
9 Matson?

10 A. He said they had placed it with Matson's,
11 and at that time I know his daughter-in-law -- I don't
12 know if she worked there at that time or she did later
13 on, but his daughter-in-law works for Matson's. I
14 don't know if she still does or not.

15 Q. So you think it might have been a family
16 consideration for moving the account from Swift Kennedy
17 to Matson?

18 A. Not necessarily.

19 Q. I am just curious. Why did you suggest
20 that in your earlier answer?

21 A. Suggest that --

22 Q. That it might have been because this lady
23 was -- the daughter-in-law, or whoever it was, might
24 have been working there?

25 A. I didn't suggest it. I said he had also

1 stated at the time when Matson's came in when he met
2 with the board, when he called me, he said that she --
3 Lisa had started working there part time.

4 Q. Did he indicate whether or not that
5 motivated him to change the account from SKA to Matson?

6 A. No. I don't know.



4 Q. This is a statement that Sam called Steve
5 regarding an issue?

6 A. Yes.

7 Q. You explained he was not in the office full
8 time. And Steve stated -- he said Steve stated he is
9 phasing out. Steve originally wrote the insurance, and
10 he preferred to talk to him. You gave him Steve's
11 number, and you would pick up the ball if he didn't get
12 the information. He thanked you and said he would call
13 Steve.

14 Did the man ever come back to you for any
15 further information?

16 A. I don't know. I worked on his account
17 before. But I don't know -- we reassigned accounts.

18 Q. Was this man, as far as you know, still a
19 client of Swift Kennedy?

20 A. Yes, he is.

21 Q. So this was a situation where a man was
22 expressing a preference to you that because of Steve's
23 relationship, he would rather talk to Steve, in so many
24 words?

25 A. That's correct.



9 Q. I believe earlier in your testimony, you
10 are saying that Pfingstler --

11 A. Pfingstler.

12 Q. If I understood your earlier testimony,
13 Steve didn't do anything to cause Pfingstler to lose
14 you, did he, to move on?

15 A. Not that I am aware of.



16 Q. There is also a suggestion that SKA lost a
17 significant amount of commission revenue as a result of
18 actions of Volpe claimed in the counterclaim. And you
19 were also listed as a witness there. Is the reason you
20 are listed as a witness there also related to this
21 TJ-10?

22 A. I would believe so.

23 Q. You had no other knowledge of any actions
24 of Steve Volpe that would cause them to list that this
25 way, would you?

1 A. Not that I am aware of.



2 Q Let me ask you, ma'am, do you have any instances
3 where Steve Volpe bad-mouthed SKA to any of its clients?

4 A No.

5 Q Do you have any information where Steve Volpe
6 gave negative information regarding SKA to any third party?

7 A No.

8 Q Do you understand what I mean generally by
9 bad-mouthing? Meaning saying something negative about a
10 person?

11 A Right, right.

12 Q And with that definition in mind, do you have
13 any personal knowledge of Steve bad-mouthing SKA to anyone?

14 A Personal knowledge, no.

15 Q Do you have any information of Steve giving any
16 false and negative information to any of the clients of SKA?

17 A No.

18 Q Do you have any information of Steve Volpe
19 intentionally interfering with a prospective business -- let
20 me slow down and go back.

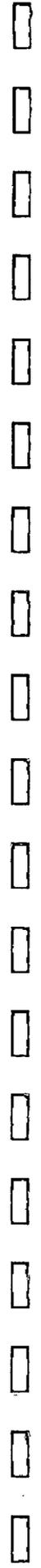
21 Do you have any knowledge, personal knowledge,
22 of Steve Volpe interfering with any client relationship of
23 SKA?

24 A Personal knowledge, no.



18 Q Do you have any personal information of any
19 false or negative information given out by Steve to any of
20 the clients of SKA?

21 A No.



21 Q Let me ask you then one more time and let's be a
22 little specific about it, what information do you have that
23 Steve Volpe bad-mouthed the agency to third parties? And
24 when I say bad-mouthing, I am not talking about something
25 which would be a discussion of terms. You know what I mean

1 by bad-mouthing?

2 A I don't have specifics, no.

3 Q You have nothing specific about that?

4 A No.

5 Q In other words, you have no personal information
6 of Steve having bad-mouthed SKA as to third parties; is that
7 correct?

8 A Bad-mouthing is a broad term.

9 Q That's why -- I am trying to make it broad.

10 A I think -- I don't have specifics, no.

11 Q Okay.

12 (Off the record.)

13 BY MR. BELIN:

14 Q So just to conclude, you have no information of
15 your own knowledge that Steve had ever bad-mouthed SKA or
16 Helpmates; is that correct?

17 A Not specific information, that I can recall.

18 Q Okay. Do you have any information that any of
19 your clients, that Steve had informed them that SKA was
20 treating him unfairly?

21 A Specific one-on-one information, no.

22 Q Do you have any information with persons or
23 entities who would be clients that Volpe provided negative
24 information about Helpmates?

25 A Specifically, no.

1 Q Do you have any information that Steve had
2 sabotaged major insurance contracts of SKA?

3 A No.

4 Q Do you have any information that Steve provided
5 false and negative information to clients with whom SKA did
6 business?

7 A No.

8 Q Do you have any information that Steve was
9 intentionally interfering with prospective clients of SKA?

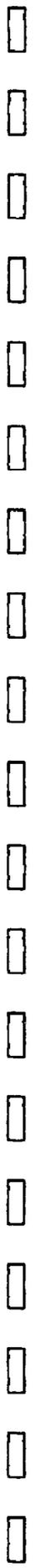
10 A Everything that I remember was not directly with
11 me. It was things that I heard.

12 Q Things that you heard from others?

13 A Uh-huh.

14 Q So you have no direct information yourself then
15 as to Steve Volpe?

16 A No.



21 **Q** Did you have any information at all of any
22 action of Steve that resulted in the loss of any of the
23 business of your clients or of SKA's clients?

24 **A** Personal knowledge, no.



15 Q For instance, did you have anything to do with
16 the administration of Tammy Jewel's contract?

17 A No.

18 Q By the way, is Tammy Jewel still employed by
19 SKA?

20 A No.

21 Q What happened, if you know?

22 A My understanding is she was asked to resign or
23 be terminated and she agreed to be terminated, her
24 employment.

25 Q Do you know when that occurred?

1 **A** Two or three weeks ago.

2 **Q** Do you know why?

3 **A** Not specifically, no.

4 **Q** You didn't discuss this matter with
5 Mr. Calistri?

6 **A** No.



CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE, :
 :
vs. : No. 03-1867-CD
 :
SWIFT KENNEDY & ASSOCIATES, :
INC. AND HELPMATES, INC. :

ORDER

AND NOW, this 14th day of February, 2006, it is the Order of
the Court that argument on Attorney Belin's Motion for Partial Summary
Judgment in the above-captioned matter has been scheduled for the 3rd day of
March, 2006, at 10:30 A.M, in Courtroom No. 1,
Clearfield County Courthouse, Clearfield, PA. One-half (1/2) hour has been
allotted for this matter.

It is the responsibility of Plaintiff's Counsel to serve certified copies of
said Petition and scheduling Order on the Defendant.

FILED 3cc
of 10:12 AM Atty Belin
FEB 16 2006

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

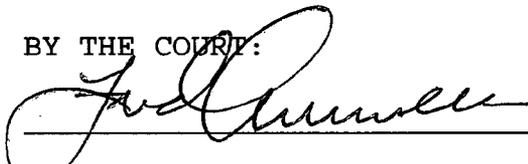
STEPHEN R. VOLPE,	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	
Defendants	:	

ORDER

AND NOW, this 22 day of February, 2006,
upon consideration of the Plaintiff's Motion for Partial
Summary Judgement, and pursuant to Local Rule 1035.2 (a), it is
the ORDER of this Court as follows:

1. The Defendants shall file a written response to said Motion within thirty (30) days after service thereof;
2. Plaintiff shall file his brief in support of said Motion within twenty (20) days after receipt of Defendants' written response. Defendants shall file a reply brief within twenty (20) days after receipt of Plaintiff's Brief;
3. Oral argument on the said Motion shall be heard by the Court on May 11, 2006 at 9:00 o'clock A.m., Courtroom #1, Clearfield County Courthouse.

BY THE COURT:



President Judge

FILED
04:00
FEB 23 2006

3cc
Amy Belin
ER

CA

BELIN & KUBISTA
ATTORNEYS AT LAW
15 NORTH FRONT STREET
P. O. BOX 1
CLEARFIELD, PENNSYLVANIA 16830

*A copy for
the file*

CARL A. BELIN, JR.
KIMBERLY M. KUBISTA
JOHN R. RYAN

CARL A. BELIN
1901-1997
AREA CODE 814
TELEPHONE 765-8972
FAX (814) 765-9893

February 16, 2006

Honorable Fredric J. Ammerman
President Judge
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

In re: Stephen R. Volpe v. Swift Kennedy &
Associates, Inc. And Helpmates, Inc.
No. 03-1867-CD

Dear Judge Ammerman:

Per my conversation today with Rhonda, we herein request that the argument scheduled in ~~the above captioned action for Friday, March 3, 2006, at 10:30 A.M. on Mr. Belin's Motion for Partial Summary Judgment be rescheduled for a date after March 9, 2006, as Mr. Belin is out of the office.~~

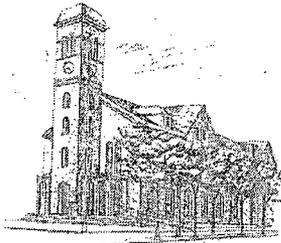
I contacted the office of Rodney Beard, Esquire, opposing counsel in this case, and he has consented to the argument being rescheduled for a date after March 9th.

Enclosed find proposed Order for the rescheduling of the argument. If there is anything further you would require, please advise.

Very truly yours,

BELIN & KUBISTA
Susan M. Hartzfeld
Susan M. Hartzfeld
Secretary

cc: Rodney A. Beard, Esquire



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/23/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Defendants' Motion for
Partial Summary Judgment

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

FILED ^{NO} _{CC}
MAR 09 2006 _{CR}

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
 :
v. : No. 03-1867-CD
 :
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendants, Swift, Kennedy & Associates, Inc. ("SKA"), and Helpmates, Inc. ("HI"), by their undersigned counsel, respectfully move this Honorable Court, pursuant to Pa. R.C.P. No. 1035.1, et seq., for the entry of partial summary judgment in favor of Defendants, specifically with regard to Counts I and III of Plaintiff's Complaint, and Count V of Defendants'

Counterclaim, on the grounds that:

1. The pleadings are closed and time exists within which to dispose of this Motion without delaying trial.
2. The pleadings, depositions, answers to interrogatories, documents, and affidavits filed of record and/or attached to this Motion or the accompanying Brief show that there is no genuine issue of material fact to be tried on the claims raised by Plaintiff in Count I and Count III of his Complaint, and Defendants are entitled to judgment as a matter of law on Count V of their Counterclaim against Plaintiff.

Termination of Employment was Proper and Justified

3. Count I of Plaintiff's Complaint sets forth a claim against SKA and HI for damages arising from termination of Plaintiff's Employment Agreement with SKA.
4. Termination of Plaintiff's Employment Agreement by SKA was proper and justified.
5. Because termination of Plaintiff's Employment Agreement was proper and justified, termination of the Agreement was not a breach by SKA and/or HI, and no damages can therefore be asserted against SKA and/or HI by Plaintiff as a matter of law.

No Liability of Helpmates, Inc.

6. HI is not a party to the Employment Agreement, and therefore cannot be liable for any claimed termination or breach of Plaintiff's Employment Agreement by SKA.

Return of Compensation

7. In the counterclaim filed by Defendants against Plaintiff, at Count V, Defendants demanded the return of compensation paid to Plaintiff during the pendency of Case No. 03-225-CD, in this Honorable Court.
8. The order issued by President Judge John K. Reilly, Jr., in Case No. 03-225-CD, and attached to Defendants' Answer, New Matter and Counterclaims as Exhibit I, provided that, "In the event that Defendant is successful in the Declaratory Judgment action, either Defendant or Helpmates, Inc., may petition the Court to offset all or part of said compensation paid from date hereof to the date of the determination of the Declaratory Judgment action."

9. SKA and HI were successful in the Declaratory Judgment Action.

10. All appeals in Case No. 03-225-CD have been decided in favor of Defendants, and no further appeal is permitted.

11. Defendants are entitled to repayment of the compensation paid to Plaintiff from the date of the Order referred to above to the date of determination of the matter in Case No. 03-225-CD as a matter of law.

12. The amount of compensation paid to Plaintiff from the date of the Order referred to above to the date of determination of the matter in Case No. 03-225-CD was \$8,886.22.

13. The amount of compensation that Defendants' are entitled to be repaid by Plaintiff is \$8,886.22.

No Claim on Guaranty

14. Count III of Plaintiff's Complaint requests entry of judgment against HI in the amount of \$480,000 as a result of a Guarantee Agreement executed by HI in favor of Plaintiff.

15. There has been no default on any obligation that would give rise to a claim against HI on the Guarantee Agreement.

16. HI is not in default under the Stock Purchase Agreement.

17. HI is entitled to have Count III of Plaintiff's Complaint dismissed as a matter of law.

WHEREFORE, SKA and HI respectfully request this Honorable Court enter summary judgment in favor of SKA and HI and against Plaintiff on Counts I and III of Plaintiff's Complaint, and in favor of SKA and HI on Count V of the Counterclaim asserted by SKA and HI against Plaintiff. In the alternative, in the event this Honorable Court does not grant summary

judgment in favor of SKA and HI on Count I of Plaintiff's Complaint, HI respectfully requests that this Honorable Court determine that HI has no liability on Count I of Plaintiff's Complaint. All of the foregoing is requested and supported by the documents, affidavits, and deposition testimony as set forth in the Brief accompanying this Motion, which is incorporated herein as if set forth more fully at length, and as may be supplemented prior to argument on this matter.

Respectfully submitted:

3/8/06
Date


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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Defendants' Response to
Plaintiff's Motion for Partial Summary
Judgment

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
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FILED ^{NO CC}
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William A. Shaw
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ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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STEPHEN R. VOLPE, :
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v. : No. 03-1867-CD
 :
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

AND NOW, comes Swift, Kennedy & Associates, Inc. ("SKA"), and Helpmates, Inc. ("HI"), by and through its undersigned counsel, and files the following Response to Plaintiff's Motion for Partial Summary Judgment. This Response is filed in accordance with the Order of Court dated February 22, 2006, and in accordance with said order, Defendants reserve the right to file a Reply Brief within 20 days after receipt of Plaintiff's Brief.

HEALTH INSURANCE BENEFIT

1. Plaintiff ("Volpe") claims that the right to the monetary value of the health insurance benefit was a "vested right," that accrued upon closing of the transaction.
2. The following facts and evidence establish that there is a genuine issue of material fact as to the claim that Volpe is entitled to the value of the "health insurance benefit" as a matter of law:
 - a. Section 3 of the Stock Purchase Agreement describes the purchase price for the stock that was purchased by HI from Volpe. Nowhere in Section 3 does the value of health insurance benefits appear. To the contrary, the purchase price is specifically described as

\$1,680,000, with \$100,000 of the purchase price being allocated toward the Non-Competition Agreement.

b. In addition, Paragraph 3.2 of the Stock Purchase Agreement also lists that Seller (Volpe) shall be entitled to receive premiums earned but not yet paid to the Closing Date.

c. If there was any other consideration to be listed as consideration for the acquisition of the shares, such consideration (such as the "health insurance benefit" as described in Plaintiff's Motion for Partial Summary Judgment) would have been listed in Section 3 of the Stock Purchase Agreement.

d. Scott Carlson's testimony on this point was as follows:

Q. If I can direct you back to SC1 again, I will direct your attention to Paragraph 3.1 on page 2 of that document.

A. Okay.

Q. Is that the paragraph that recites what the purchase price is?

A. Correct.

Q. And then I see Paragraph 3.2 indicates that Mr. Volpe would be entitled to receive premiums earned, but not yet paid up to the closing date.

A. Correct.

Q. And Paragraph 3.3 has to do with securing for payment of the balance of the purchase price; do you see that?

A. Uh huh.

Q. If the Employment Agreement was part of the consideration for the overall purchase of the company, is

there any reason why that Employment Agreement was not contained within this Paragraph?

A. I am not sure why Mr. Hopkins put it at the end and not in there. That's something that I would have thought you and him at that point would have –if there was a serious issue, you would have brought it to my attention.

Scott Carlson Deposition, June 27, 2005, Page 50, Lines 22, through Page 51, Line 19.

e. Also, in regard to the employment of Volpe, Scott Carlson testified as follows:

Q. Is it fair to say that was your intent has to how Mr. Volpe would work after the transaction closed? If Mr. Volpe was not working after the transaction closed, what would that have meant?

A. If he was not working as in like just did not show up?

Q. That's correct?

A. Then he would be in breach of the contract. I mean, that's exactly what you guys are claiming.

Scott Carlson Deposition, June 27, 2005, Page 53, Lines 4 – 12.

f. It is believed and therefore averred that Volpe did not include the value of the "health insurance benefit" as described in his Motion for Partial Summary Judgment as part of the consideration that he received for sale of his stock in SKA for tax purposes. Defendants are serving requests for admissions on Volpe to verify this fact. Responses to such requests for

admissions will be due from Volpe prior to the date this Court has scheduled this matter for argument.

3. Volpe is attempting to insert provisions in the Stock Purchase Agreement that do not exist in the document.

4. Volpe fails to recognize the difference between: (1) his agreement with HI to purchase the stock of SKA from him, and (2) his agreement with SKA to employ him pursuant to a specified compensation package.

5. Volpe's claim for a "vested right" to a "health insurance benefit" is not properly pleaded within Count I of his Complaint pertaining to breach of the Employment Agreement.

6. Volpe's claim for a "vested right" to a "health insurance benefit" falls within the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. §§1001, et seq., as a claim under an "employee welfare benefit plan" as defined in 29 U.S.C. § 1002(1).

7. Exclusive jurisdiction for all claims of this nature under ERISA lies in the federal courts pursuant to 29 U.S.C. § 1132(e).

8. Any claim of this nature must be commenced within three (3) years from the date it accrues. 29 U.S.C. § 1113.

9. Because Volpe did not receive payment for the value of the "health insurance benefit" to age 65 as of April 30, 2002, any claim of this nature accrued as of April 30, 2002, and is now barred by the statute of limitations for ERISA claims.

WHEREFORE, SKA and HI assert that they have produced sufficient evidence to show that there is a material fact in dispute in regard to whether Volpe is entitled to the value of health

insurance benefits as described in his Motion for Partial Summary Judgment, and this Honorable Court should deny Volpe's Motion for Partial Summary Judgment on this issue.

PROPERTY AND CASUALTY INSURANCE

REFERRAL COMMISSIONS

10. Volpe claims that he is entitled to property and casualty referral commissions as a result of a preexisting agreement with another company (either Swift Kennedy & Company and/or Swift Kennedy Financial).

11. There is a material issue of fact in regard to the terms of the preexisting agreement between the companies pertaining to referral commissions for property and casualty insurance sales.

12. Attached hereto as Exhibit 1 is the Affidavit of James D. Curtis, President of Swift Kennedy Financial Co., Inc., stating that Swift Kennedy Financial Co., Inc., is entitled to payments for referral commissions from SKA, not Stephen R. Volpe, resulting from the period of time prior to closing for which Volpe owned SKA.

13. Paragraph 5.10 of the Stock Purchase Agreement submitted by Plaintiff as an exhibit in support of Plaintiff's Motion for Partial Summary Judgment states that "Exhibit D lists each and every contract to which the Company is a party, other than contracts and commitments listed in some other exhibit hereto."

14. Exhibit D to the Stock Purchase Agreement does not list any right to receive referral commissions on sales of property and casualty insurance.

15. Mr. Belin's question to Mr. Moline, referred to on page 7 of the Plaintiff's Motion for Partial Summary Judgment, admits that property and casualty commissions were paid over to Swift, Kennedy & Associates.

16. Once HI acquired all of the stock of SKA, any contractual rights in favor of SKA continued to belong to SKA unless they were specifically excluded.

17. The Stock Purchase Agreement did not specifically exclude commission payments arising from sales of property and casualty insurance.

18. There is a material issue of fact in regard to whether Volpe is entitled to receipt of commissions from sales of property and casualty insurance.

WHEREFORE, SKA and HI assert that they have produced sufficient evidence to show that there is a material fact in dispute in regard to whether Volpe is entitled to payment for referral commissions resulting from the sale of property and casualty insurance as described in his Motion for Partial Summary Judgment, and this Honorable Court should deny Volpe's Motion for Partial Summary Judgment on this issue.

STOCK/ASSET SALE

19. HI and SKA do not contest that Volpe is entitled to payment for the additional taxes resulting from the change in the tax structure of the transaction from a Stock Purchase Agreement to an Asset Purchase transaction pursuant to Section 338(h) of the Internal Revenue Code.

20. Attached hereto as Exhibit 2 is a letter from Volpe's accountant indicating that the amount of additional taxes resulting from the change in tax treatment for the transaction was approximately \$2,394.00, rather than the \$75,600.00 claimed by Volpe.

WHEREFORE, SKA and HI assert that no material issue of fact exists in regard to whether Volpe is entitled to payment for the difference in tax treatment for the transaction, but a material fact is in dispute in regard to the amount of such claim.

UNDISCLOSED LIABILITIES

21. The matter of referral commission payments going back and forth between Swift Kennedy Financial Co., Inc., and SKA was an ongoing matter between the companies that was rather confusing and no person deposed as a witness in this case has yet been able to testify clearly in regard to the nature of the arrangement.

22. For instance, Volpe's testimony in regard to this matter was as follows:

Q. If you could, just briefly explain for me the relationships between the various Swift Kennedy entities.

A. The intent was one of the companies would get a prospect, they would sell, and then offer them referrals to the other companies.

Q. Okay. And each company has its own line of products that it was selling; is that correct?

A. Yes.

Q. You have already explained to me the lines that Swift, Kennedy & Associates was selling. Can you explain the lines that Swift Kennedy Financial was selling? What lines did Swift, Kennedy & Company sell?

A. Property and casualty.

Q. If Swift, Kennedy & Associates referred a customer to Swift Kennedy & Company for property and casualty insurance sale, did Swift, Kennedy & Associates receive a commission from that?

A. The referring agent would receive a commission on it. Me being the only referring agent at the time received a commission on it.

Q. Was the commission arrangement on these referrals ever reduced to writing?

A. Yes.

Q. What document or documents encompassed that commission arrangement?

A. A piece of paper.

Q. Do you know where that piece of paper would be today?

A. No.

Q. Did you have a copy of it at some point?

A. Yes.

Q. Did the owners of Swift Kennedy Financial have a copy of it at some point?

A. Yes.

Q. Would the owners of Swift Kennedy & Company have a copy of it at some point?

A. Yes.

Steve Volpe Deposition, August 31, 2005, Page 12, Line 15, through Page 14, Line 2.

23. Also, Volpe further testified as follows:

Q. Did you discuss with Scott Carlson the arrangements you had with Swift Kennedy Financial and Swift Kennedy & Company for splitting various commissions?

A. Yes.

Q. Do you recall what you discussed with Mr. Carlson?

A. I believe that I told him how the arrangements were.

Q. Did you tell him where you could find any of that stuff in writing at all?

A. I would only be guessing to answer that, because I recall having the papers in the left-hand second drawer. It was something that Ed Hopkins had drawn up years ago. And it was – that's where I would have kept the papers.

Q. Who is Ed Hopkins?

A. Names keep surfacing. He had was an one-time owner of, I guess, partial owner of Swift Kennedy & Company and Swift Kennedy Financial.

Q. When did he - -

A. I have no clue.

Steve Volpe Deposition, August 31, 2005, Page 58, Line 19, through Page 59, Line 15.

24. In regard to the Doug Greenheisen transaction, Mr. Volpe testified as follows:

Q. Prior to the closing of the transaction with Helpmates, did you ever mention any arrangement that you had with Doug Greenheisen to Scott Carlson?

- A. I remember having some discussion about Doug and offering a -- my thoughts on it.
- Q. What was the arrangement that was going on with Doug Greenheisen?
- A. Doug wanted me to buy his business because he moved to -
- I think it was Virginia.
- Q. What was his business?
- A. He had a couple of group cases, and I don't know if he had any individual cases, but I know he had a couple of group cases.
- Q. And those were in the DuBois area?
- A. General vicinity, DuBois, Brockway.
- Q. Did you and Doug Greenheisen ever discuss purchase price for his business?
- A. Well, Doug told me what he wanted for his business. During that time, with the negotiations going on with Scott, and not being able to really tell anybody, I would continue to put Doug off. We -- and when I say "we," I mean Swift, Kennedy & Associates and Swift Kennedy Financial -- were going through some evaluations, because Frank Anderson and George Heigel and I met with Mark Freemer -- that was another one that was going to buy the business -
- about evaluations of the business, and how we were going

to come up for ways to sell it to those guys. So I had to be
-- I knew I had Scott over here, and I had to -- I couldn't
tell Doug.

Q. You didn't want to let him know stuff was going on?

A. It was unethical to tell him. I believe somewhere in those
agreements, Scott and I agreed not to let the public know of
such thing.

Q. But did you discuss Doug Greenheisen with Scott Carlson?

A. I believe I did.

Q. That was prior to closing?

A. Yes.

Steve Volpe Deposition, August 31, 2005, Page 56, Line 23, through Page 58, Line 12.

25. From Volpe's testimony, it is clear that he had notice of the Doug Greenheisen claim even prior to closing, and he failed to list this as a liability of SKA in the Stock Purchase Agreement.

WHEREFORE, SKA and HI assert that they have produced sufficient evidence to show that there is a material issue of fact in dispute in regard to Volpe's obligation to pay SKA and/or HI for undisclosed liabilities, and this Honorable Court should deny Volpe's Motion for Partial Summary Judgment on this issue.

BADMOUTHING, DISPARAGEMENT,

AND INTENTIONAL INTERFERENCE

26. Volpe admits in his Motion that Jerry Calistri testified to the conversations he had with people regarding information those people had received from Volpe although the people did

not describe their conversations with Volpe as “badmouthing,” “disparagement,” or “false information.”

27. Mr. Calistri’s testimony on this point was as follows:

A. Well, not meeting the expectations of coming to work, for one. I certainly think it’s important for employees to communicate with their manager, was the second one. I felt those were two big issues.

By this time, we were getting feedback from people in the community that Steve was not happy with the Judge’s decision for him to work.

Q. Did you receive this feedback directly?

A. In a couple cases, yes, sir.

Q. Who were they?

A. The first one that I can recall was a friend of Steve’s that owns Korb Monuments. I believe he was listed in depositions as somebody that Steve spoke to about this.

Q. What was his name?

A. Joe Korb.

Q. When did you meet with Korb?

A. It was at a retirement party for Frank Anderson who retired from the Swift Kennedy group. He was president of the group.

Q. What did Joe say specifically to you?

A. Just that Steve was talking to him about the Agreement, that there were some legal issues; that he had to go back to work and work full-time, and he wasn't happy about it.

Q. But as I am saying, none of that conversation suggests that he was badmouthing Swift Kennedy is there?

A. Well, I think it was affecting the relationship between Swift Kennedy and his clients. Maybe it was my --

I would agree that's badmouthing.

Q. Did that occur in either conversation?

A. I don't know if they would have shared that information because they were friends of Steve's.

James J. Calistri Deposition, June 28, 2005, Page 63 through Page 66.

28. Also, Linda Barnacastle testified in regard to the disparaging remarks Mr. Volpe made about SKA:

Q. Okay. That's fine. In your testimony you indicated there were some concerns raised to you by Larry Lecher. Did Mr. Lecher indicate to you why he was raising any concerns to you? And let

me try to be a little more specific, did Mr. Lecher state to you that he was raising concerns with you based upon conversations he had had with Mr. Volpe?

A. Yes.

Linda Barnacastle Deposition, November 21, 2005, Page 36, Line 18 – 25.

WHEREFORE, SKA and HI asset that they have produced sufficient evidence to show that there is a material fact in dispute in regard to whether Mr. Volpe made disparaging and/or negative remarks about SKA that damaged SKA's business, and this Honorable Court should deny Volpe's Motion for Partial Summary Judgment on this issue.

Respectfully submitted:

Date

3/8/06



Rodney A. Beard, Esquire
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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STEPHEN R. VOLPE,
Plaintiff

v.

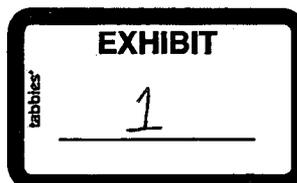
No. 03-1867-CD

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

AFFIDAVIT

I, James D. Curtis, President of Swift Kennedy Financial Co., Inc., hereby make the following Affidavit and statement of facts regarding monies owed to Swift Kennedy Financial Co., Inc., from Swift, Kennedy & Associates, Inc.:

1. In 1997, Matthew (Ted) Ruttinger entered into an Agreement with Swift, Kennedy & Associates, Inc., and Swift Kennedy Financial Co., Inc., regarding division of the Swift Kennedy business.
2. As a part of the Agreement, Swift Kennedy Financial Co., Inc., retained the right to sell group life, group disability, group dental, and group vision insurance business.
3. As part of the Agreement, Swift, Kennedy & Associates, Inc., retained the right to sell group health insurance business.
4. Also as part of the arrangement, Swift, Kennedy & Associates, Inc., and Swift Kennedy Financial Co., Inc., entered into an arrangement whereby commissions were shared based on the terms of the Agreement between the parties. For instance, if Swift Kennedy Financial Co., Inc., sold group health insurance, such insurance was to be sold through Swift, Kennedy & Associates, Inc., and Swift Kennedy Financial Co., Inc., was entitled to receive a



shared commission on the money received by Swift, Kennedy & Associates, Inc., on the sale of the group health insurance. Similarly, any group life, group disability, group dental, and group vision insurance business sold by Swift, Kennedy & Associates, Inc., was to be sold through Swift Kennedy Financial Co., Inc., and Swift, Kennedy & Associates, Inc., was entitled to receive a shared commission on the money received by Swift Kennedy Financial Co., Inc., on the sale of the insurance.

5. From 1997 through April 30, 2002, Steve Volpe was the owner of Swift, Kennedy & Associates, Inc.

6. On or about April 30, 2002, Steve Volpe sold all of the stock of Swift, Kennedy & Associates, Inc., to Helpmates, Inc.

7. It came to the knowledge of Swift Kennedy Financial Co., Inc., after April 30, 2002, that Swift, Kennedy & Associates, Inc., while under the control and ownership of Steve Volpe, had made sales of various insurance products that should have been sold through Swift Kennedy Financial Co., Inc., and should have resulted in a commission for Swift Kennedy Financial Co., Inc.

8. The following listing provides the accounts that Swift Kennedy Financial Co., Inc., has learned should have been sold through Swift Kennedy Financial Co., Inc., the carrier, and the amount of commission due Swift Kennedy Financial Co., Inc.:

	<u>Account</u>	<u>Carrier</u>	<u>Commission</u>
a.	Atlas Pressed Metals	Security Mutual	\$1,032.45
b.	Brookville Mining	Met Life	\$2,114.51
c.	DuBois Nursing Home	Hartford	\$623.01
d.	Choice Enterprises	Delta Dental	\$341.40
e.	Choice Enterprises	Vision Benefits	\$202.55
f.	City of DuBois	Security Mutual	\$1,919.44
g.	Brookville Mining	Delta Dental	\$604.66
		TOTAL:	\$6,838.02

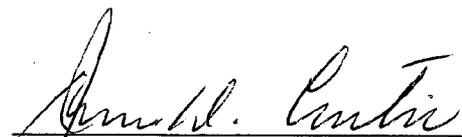
9. Subsequent to April 30, 2002, Swift Kennedy Financial Co., Inc., learned that Swift, Kennedy & Associates, Inc., while under the control and ownership of Steve Volpe, had retained full commissions on these cases for Swift, Kennedy & Associates, Inc., and failed to provide Swift Kennedy Financial Co., Inc., with the shared portion of the commission.

10. As a result of Swift, Kennedy & Associates, Inc., while under the ownership and control of Steve Volpe, retaining full commissions on these cases and failing to provide the shared commission portion to Swift Kennedy Financial Co., Inc., it is my belief that Swift, Kennedy & Associates, Inc., owes to Swift Kennedy Financial Co., Inc., the amount of \$6,838.02.

11. On behalf of Swift Kennedy Financial Co., Inc., I set forth the above claim against Swift, Kennedy & Associates, Inc., and request that Swift, Kennedy & Associates, Inc., make payment to Swift Kennedy Financial Co., Inc., in the amount of \$6,838.02.

SWIFT KENNEDY FINANCIAL CO., INC.

Dated: 9-16-2005

By: 
James D. Curtis, President

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF :

On the 16th day of SEPTEMBER, 2005, before me, the undersigned officer, a Notary Public, duly commissioned in and for the said County and State, personally appeared James D. Curtis, who acknowledged himself to be the President of Swift Kennedy Financial Co., Inc., a corporation, and that he as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

 (Notary Public)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
April M. Pemesky, Notary Public
City Of DuBois, Clearfield County
My Commission Expires July 13, 2008
Member, Pennsylvania Association Of Notaries

Richard E. Portzer, CPA
PO Box 46, Kiwanis Trail
DuBois, PA 15801

Phone: Office 814-371-3000
Home 814-371-4024
Fax: 814-371-3739

August 4, 2003

Mr. Steve Volpe
1017 Green Glen Drive
DuBois, PA 15801

Dear Steve,

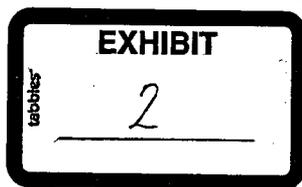
I have researched the issue of the tax consequences of the Section 338 election made with respect to your sale of the stock in Swift, Kennedy, and Associates, Inc. an 1120-S corporation for federal tax return purposes.

My research revealed that the Section 338(h)(10) election was timely filed before the 15th day of the 9th month beginning after the month in which the acquisition date occurs (Section 338(g)(1) of the IRC. The Form 8023 upon which the election was filed and, as you know, executed by you and the purchaser. Once made the election is irrevocable – Regulation 1.338(h)(10)(4). In effect the election results in a taxable gain as if the assets of the corporation were sold and the proceeds distributed to the shareholder in complete liquidation of the stock. The election triggers two events that affect your tax liability. There is tax resulting from the deemed gain that flows thru from the 1120-s and tax from the deemed liquidation in exchange for your stock. The gain triggered by the deemed sale under 338 increases your basis in the stock for purposes of determining the gain or loss upon the deemed liquidation of the stock.

I requested a copy of the 1120-S corporate return, for the year ending 4/30/02, that reflected the deemed sale from Mark Freemer. Upon the advice of Helpmate's counsel my request was denied.

Based on the information reported on the K-1 for Swift Kennedy and discussions with Larry Gabler relative to your basis in the 1120-S prior to the deemed sale I compared the tax consequences resulting from the 338 election with the tax results of a stock sale had the 338 election not been made. Since I did not have access to the corporate return the numbers with respect to your basis in the stock may not be 100% accurate. However, based on the information obtained they should be relatively accurate.

A summary of the tax including the tax you will pay upon receipt of the \$480,000 of deferred payments is enclosed along with a partial copy of the returns under each method of reporting. I had a discussion with Dave Hopkins on July 25 and I indicated that the tax difference was approximately \$8,000, however, the final numbers produced a much smaller number. You will note that the additional tax resulting from the 338 election is

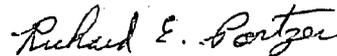


only \$2,394 after considering the tax implications of the deferred payments which will be reportable in subsequent years; however, the deemed election increased your 2002 tax by \$72,666. Accordingly there is a substantial amount of additional tax as a result of the Section 338 election for the year 2002 that you will not recoup until such time as the final note payment is made. If you are negotiating a cost to you of the 338 election the time value of paying the tax in 2002 rather than a latter year cost should in my opinion be a factor. If the entire stock sale had been reported in 2002, rather than reporting the sale under the installment method the difference in tax would have been \$3,962 more on the deemed sale vs. the tax from a straight stock sale.

You will also note that my computation of taxable income reflected on the enclosed return reflecting the 338 deemed sale differs from that reported on your copy of the tax return. The return as filed does not reflect an installment sale. Based on my research it is my opinion that enclosed copies represent the correct reporting with respect to the deemed sale and deemed liquidation pursuant to Regulation 338(h)(10)-1(e) Example 10.

If you have any questions or wish to discuss the matter in person please give me a call.

Sincerely yours,



Richard E. Portzer, CPA

Encl: Pro forma Tax Returns -2

Schedule of Tax Differences of Section 338 Deemed sale vs. Stock Sale

Steve Volpe
Tax Difference of Section 338 Deemed Sale vs Stock Sale
Installment Sale Method of Reporting

Capital Gain from 338 Deemed sale & deemed Liquidation
 Section 1231 Gain from K-1 Deemed Sale
 Capital Gain Deemed Liquidation
 Total Capital Gain

	<u>2002</u>
	\$1,116,870
	<u>\$273,460</u>
(A)	<u>\$1,390,330</u>

Installment Note		
	<u>Stock Sale</u>	<u>Sec. 338 Tax</u>
	Total	Total

(A) Capital Gain Deemed Sale Liquidation
 Selling Price of Stock
 Cost Basis
 Origina Stock cost

	\$700
	\$30,000
	\$1,116,870
	<u>\$39,624</u>
	<u>\$1,187,194</u>

Gross profit %
 Installment Sale reportable in 2002
 Sales proceeds received
 Gross Profit Percentage
 Taxable Installment Sale Gain Reportable in 2002

	392,806
	<u>24.86%</u>
	\$1,100,000
	<u>24.86%</u>
	<u>\$273,460</u>

Selling Price of Stock
 Basis
 Stock original cost
 Balance in AAA acct - Est per L. Gabler
 Gain
 Gross Profit percentage

	\$1,580,000
	\$700
	<u>\$30,700</u>
	<u>\$1,549,300</u>
	<u>98.06%</u>

Proceeds Received in 2002
 Gross Profit Percentage
 Installment Sale Gain From Sale of Stock had there been no Deemed Sale

2002
 \$1,100,000
 0.9806
 1078660

Covenant
 \$1,200,000 -\$100,000

Installment Note
 Stock Sale Sec. 330 Sale Total Tax

Future Installments
 Gross Profit Percentage
 Taxable Gain
 Capital Gain tax - 20%

\$480,000 \$480,000
 0.9806 0.2486
 \$470,688 \$119,328
 \$94,138 \$23,866

Tax with deemed Section 338 sale - See proforma tax return
 Tax - Stock Sale - See proforma tax return
 Difference

\$321,919
 \$249,253
 \$72,666

\$23,866 \$345,785
 \$94,138 \$343,391
 \$2,394

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendants' Response to Plaintiff's Motion for Partial Summary Judgment was served by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 8th day of March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3/8/06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

FILED *no cc*
MAR 09 2006
William A. Shaw
Prothonotary/Clerk of Courts

AFFIDAVIT

I, the undersigned James J. Calistri, hereby make the following Affidavit and statement of facts pertaining to my knowledge of the facts in the above captioned matter. I make this affidavit knowingly, willingly, and voluntarily, and I verify that the facts set forth below are true and correct to the best of my knowledge and belief.

1. My name is James J. Calistri. I am an adult individual, and I reside at 168 East Curtin Street, Bellefonte, Pennsylvania.

2. I was hired by Helpmates, Inc., in February, 2002, to serve as the Vice President of Operations of Swift, Kennedy & Associates, Inc., an insurance brokerage business that Helpmates was in the process of purchasing in 2002.

3. Helpmates completed the purchase of Swift, Kennedy & Associates, Inc. (hereinafter "SKA"), from Stephen R. Volpe on April 30, 2002.

4. Following the purchase of SKA by Helpmates, I continued in my position as Vice President of Operations for SKA. In my capacity as Vice President of Operations for SKA, my job duties involved oversight of sales personnel, oversight of service personnel, oversight of contracted producers, and oversight of vendor relationships.

5. One of the primary functions of my job as Vice President of Operations for SKA is to coordinate the activities of sales personnel so that clients and customers of SKA will receive consistent communication from SKA regarding their insurance needs.

6. In order to ensure that clients and customers of SKA receive consistent information from all SKA personnel regarding their insurance needs, it is important that sales personnel communicate to me their activities in regard to contacts with and communications with any clients and customers of SKA.

7. For approximately four months after April 30, 2002, Mr. Volpe continued to work on a more or less regular basis for SKA, and was generally accessible during normal working hours Tuesday through Friday of each workweek. During this period of time, I communicated regularly with Mr. Volpe and Mr. Volpe kept me reasonably informed of his activities regarding contacts with and communications with potential customers, customers and clients of SKA.

8. In September, 2002, I began to see less and less of Mr. Volpe and the level of communication that he provided me regarding his activities for SKA diminished substantially. It became very difficult for me to remain knowledgeable of Mr. Volpe's activities in order to coordinate his activities as a salesperson of health related benefits for SKA with the activities of other sales personnel of SKA.

9. I became aware of numerous instances where Mr. Volpe had communicated with customers and clients of SKA in a way that was inconsistent with other information being generated from other sales personnel of SKA and communicated to the same clients. On several occasions during October and November, 2002, when I asked Mr. Volpe to inform me of his activities on behalf of SKA, Mr. Volpe responded that he was only required to work five hours per week for SKA.

10. After consulting with my supervisor at Helpmates regarding the status and activities of Mr. Volpe, we held a meeting with Mr. Volpe on December 23, 2002, to discuss his work activities.

11. Following the meeting of December 23, 2002, I informed Mr. Volpe of management's interpretation that his work hours were not limited to only five hours per week, but rather he was expected to work essentially full-time as a sales person of health related benefits for SKA.

12. Shortly after communicating to Mr. Volpe that his work hours were not limited to only five hours per week, Mr. Volpe filed a lawsuit in the Court of Common Pleas of Clearfield County, to Case No. 03-225-CD, requesting that the Court enter a declaratory judgment that he was only required to work not more than five hours per week.

13. While the declaratory judgment action that Mr. Volpe filed was pending, I learned that Mr. Volpe was engaging in activities toward clients, customers, and vendors of SKA that were inappropriate and not coordinated with other sales people of SKA.

14. As a result of the activities that Mr. Volpe was engaging in, counsel for SKA forwarded correspondence to counsel for Mr. Volpe informing Mr. Volpe of the inappropriate activities and the fact that continuing to engage in those types of inappropriate activities would result in termination of employment. The letter from SKA's counsel to Mr. Volpe's counsel, is dated April 30, 2003, a true and correct copy of which is attached to this Affidavit, marked Exhibit A.

15. Throughout April, May, and June, 2003, Mr. Volpe continued to be uncooperative in regard to keeping me informed of his activities, and Mr. Volpe often would not respond to my requests for information. Attached to this Affidavit as Exhibit B is a true and correct copy of a

printout from an email communication between myself and Mr. Volpe dated May 16, 2003, showing that nearly six (6) months had elapsed without Mr. Volpe communicating to me information that was reasonable for me to request Mr. Volpe keep me informed.

16. President Judge John K. Reilly, Jr., issued his Opinion and Order in Case No. 03-225-CD on or about July 9, 2003. The Order provided that Mr. Volpe's written Employment Agreement with SKA was not ambiguous, and it required Mr. Volpe to work essentially full-time as a sales person of health related benefits for SKA; the required work hours for Mr. Volpe were not limited to only five hours per week.

17. In the weeks following issuance of Judge Reilly's decision, Mr. Volpe began showing up to work more frequently, but he was often not dressed appropriately, did not keep me informed of his activities, and began keeping a diary of the activities of other personnel in the office.

18. As a result of Mr. Volpe's continuing lack of cooperation and failure to keep me informed of his activities regarding contacts and communication with clients and customers of SKA, management of SKA decided to suspend Mr. Volpe from employment on or about August 18, 2003.

19. Upon suspension of Mr. Volpe's employment, SKA informed Mr. Volpe to return all company property to the company, and that Mr. Volpe should not be engaging in any activities related to the business of SKA during the period of suspension.

20. Mr. Volpe refused to return a Cadillac that was leased by the company, and also continued to engage in activities, including a golf outing, with representatives of SKA's major vendor.

21. Even though SKA continued to request that Mr. Volpe return the Cadillac automobile to the company, Mr. Volpe refused to return the Cadillac to the company until SKA received an Order from the Court requiring that Mr. Volpe return the vehicle.

22. Through September and October, 2003, we attempted to negotiate resolution of the differences between SKA and Mr. Volpe. However, we were not able to reach a satisfactory resolution of the differences, and SKA terminated Mr. Volpe's employment on October 27, 2003.

Dated: 3-6-06

James J. Calistri
James J. Calistri

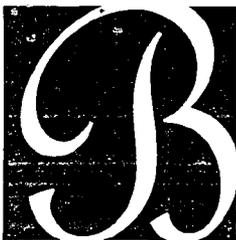
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CENTRE :

On the 6th day of March, 2006, before me, the undersigned officer, a Notary Public, duly commissioned in and for the said County and State, personally appeared James J. Calistri, known to me or satisfactorily proved to be the person whose name is subscribed to the within instrument and acknowledged that the instrument was executed for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Rodney A. Beard, Notary Public
Benner Twp., Centre County
My Commission Expires Oct. 22, 2006
Member, Pennsylvania Association of Notaries

[Signature] (Notary Public)



Rodney A. Beard, P.C.
Attorney at Law



April 30, 2003

VIA FACSIMILE to (814) 375-5035

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

Re: Scheduling Work Hours for Steve Volpe

Dear Mr. Hopkins:

I received your correspondence of April 29, 2003, regarding the above referenced matter, and of course I am somewhat concerned. Your correspondence (which I must presume was authorized by Mr. Volpe) shows the continuing flagrant disregard by Mr. Volpe of the fact that he is an employee of Swift Kennedy. As an employee, Mr. Volpe is not entitled to prescribe his work activities, and it is not up to him to tell Swift Kennedy which customers he will contact and when.

The work schedule proposed by Swift Kennedy certainly was not designed to aggravate Mr. Volpe. In our discussions, we felt it may be most useful to have Mr. Calistri and Mr. Volpe spend some time together. Because Mr. Calistri is the manager of Swift Kennedy, we did not think Mr. Volpe would be opposed to this. In any event, it must be made clear to Mr. Volpe that he does not set his work schedule. Judge Reilly's Order specifically provided that Mr. Volpe's hours would be at the convenience of Swift Kennedy. For Mr. Volpe to attempt to dictate his schedule and/or his work activities is not acceptable. Please consider this communication as a written warning that Mr. Volpe's employment will be terminated for cause if he continues to ignore the direction and policies of Swift Kennedy.

In regard to the schedule proposed by Mr. Volpe for this week, the items for Monday and Tuesday, although not acceptable, are already done. Hopefully, nothing bad will result from Mr. Volpe's unilateral actions on these matters. His complete failure and refusal to communicate with Mr. Calistri causes great risk for Swift Kennedy. For instance, A.B. Halstrom is already a customer of Swift Kennedy serviced through Tammy Jewel. Obviously, Swift Kennedy will look rather silly and disorganized in not being able to coordinate the activities of its



814.237.3101 ph.
814.237.3102 fax

2766 W. College Ave.
Suite 4
State College, PA 16801

David J. Hopkins, Esquire

Page 2

April 30, 2003

employees in an orderly fashion. This is unacceptable, and if Mr. Volpe continues to refuse to communicate in advance with Mr. Calistri regarding his actions, his employment will be terminated for cause. Swift Kennedy will not tolerate such activity by any of its employees.

Also, your letter indicates that Catholic Social Services "expressed concerned," over an increase in their premiums. Swift Kennedy has no knowledge of this, and it is completely unacceptable for Mr. Volpe to be hiding such information from Swift Kennedy. His continuing refusal to provide such information to Swift Kennedy will result in termination of his employment for cause.

In addition, your letter does not indicate the personnel at UPMC with whom Mr. Volpe had planned to meet, or the purpose of the meeting. It is unacceptable for Mr. Volpe to be carrying on meetings with representatives of UPMC without informing Swift Kennedy of the personnel with whom he is meeting and the purpose of the meeting. Providing this information to Swift Kennedy is necessary in order for Swift Kennedy to properly coordinate the activities of its representatives. Mr. Volpe's failure to inform Swift Kennedy (through Mr. Calistri) of these types of activities will result in termination of his employment for cause.

In regard to the computer training, as you suggested at our prior meetings, it may be more productive for others within Swift Kennedy to perform data entry on the computer system rather than Mr. Volpe. Swift Kennedy previously notified Mr. Volpe of mandatory computer training sessions for employees, and Mr. Volpe failed to attend or otherwise respond to the notices. As an accommodation to Mr. Volpe, Swift Kennedy will prepare a paper form that he will fill-out and provide to office staff for input of the necessary data into the computer system. Refusal by Mr. Volpe to fill-out the form for each customer/prospect and turn the forms in to Tammy Jewel on a weekly basis will result in termination of his employment for cause.

In regard to attendance at vendor meetings, the decision as to who will attend such meetings on behalf of Swift Kennedy rests with Swift Kennedy, not Mr. Volpe. Swift Kennedy coordinates certain representatives to attend these meetings on behalf of Swift Kennedy as deemed appropriate by Swift Kennedy. In the event Mr. Volpe receives an invitation to attend any such meeting, he will be expected to discuss the matter with Mr. Calistri. Should Mr. Volpe elect not to discuss with Mr. Calistri his attendance at any vendor meeting(s) to which Mr. Volpe receives an invitation, such action by Mr. Volpe will result in termination of his employment for cause.

David J. Hopkins, Esquire
Page 3
April 30, 2003

Please have Mr. Volpe plan to meet with Mr. Calistri in the State College office on Friday, May 2, at 2:00 p.m., rather than Thursday, May 1. Mr. Volpe is not to be in the DuBois office other than during regular office hours (8:30 am to 5:00 pm, Monday through Friday). It is unacceptable for an employee who is suing the company to have unsupervised access to business property. Given that Mr. Volpe is only working five (5) hours per week, he should not need after hours access to the business property. If this is incorrect, please let me know.

Additional information for next week's schedule will be forthcoming soon.

Please feel free to contact me with any questions. Thank you.

Very truly yours,



Rodney A. Beard

RAB/hrr

c: Rodney Moline (via facsimile)
Jerry Calistri (via facsimile)

N:\Clients\Swift, Kennedy & Associates, Inc\S. Volpe\Hopkins.4-30-03.doc

----- Original Message -----

From: Jerry Calistri
To: Stephen Volpe
Cc: Rod Beard
Sent: Friday, May 16, 2003 9:21 AM
Subject: Communication

Steve,

The information you provided me last week was very helpful. It was the first time in over 6 months that I have received any feedback regarding your activities. I also thought our meeting was beneficial and opened a dialog that had been absent for some time. At our meeting, we discussed your activities and areas that you were going to focus your efforts. It was clear to me that you were going to work on new business opportunities with larger accounts. You seemed exceeded to finally have the time to work larger accounts. Below is list of those accounts you identified. They have been entered onto our database and identified as your prospects.

Peggy Amon: Although Linda had a conversation with Peggy a couple of days before you did, she agreed to allow you to work this sale.

Simpson Communication: Prospect
MH&MR: Prospect
Mikes Commet: Prospect
DRMC: Prospect
Britton Construction: Prospect
Gasbarre Products: Prospect
Luton Plumbing & Heating: Prospect
Mr. Pizza: Prospect

As you prepare to add to this list and contact new prospects, please email me the name of the account and I will check to see if anyone else is currently working on that prospect. This will save us from duplicating our efforts. Each Friday you will continue to contact me regarding your activities for the week.

Communication is vital to our success. If you are contacted by any Swift Kennedy Associates clients, vendors or agents, please refer them back to the agency. This will free your time to actively prospect the accounts you have identified. If for some reason you need to take an existing client or agent to lunch for work related purposes, you should discuss with me for prior approval. Your company Visa card is to be used for entertaining prospects. Please let the assigned staff members entertain their clients and the Broker Manager entertain her Agents.

It is good business practice not to discuss your current lawsuit with clients, vendors and agents. I trust you will refrain from this activity. I continue to have staff members having to justify your current status based on what you are telling people. I can assure you that it is not in your best interest or the interest of the agency to have such discussions.

If you have any questions, please contact me,

5/19/2003



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate of Service

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

ORIGINAL

FILED ^{icc}
MAR 09 2006 ^{Atty}
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of the Affidavit of James J. Calistri, in the above caption matter, by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 8th day of March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

3/8/06


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 :
vs. : No. 03 - 1867 - CD
 :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : CERTIFICATE OF
 : SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED *no cc*
02:53/01
MAR 09 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Order in the above-captioned matter to the following party by postage prepaid United States first class mail on the 24th day of February, 2006:

Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate Prerequisite
to Service of a Subpoena Pursuant
to Rule 4009.21

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

ORIGINAL

FILED
m 110:566N CC
MAR 13 2006
LJD

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Notice of Intent to Serve
Subpoena to Produce Documents and
Things For Discovery Pursuant to Rule
4009.21

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Swift, Kennedy & Associates, Inc./Helpmates, Inc., intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted:

10/2/05
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Intent to Serve Subpoena was served by U.S.

First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 2/5 day of

October, 20 15, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

10/27/15


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Stephen R. Volpe
Plaintiff(s)

*

Vs.

*

No. 2003-01867-CD

Swift Kennedy and Associates, Inc.
Helpmates, Inc.
Defendant(s)

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: SWIFT KENNEDY FINANCIAL CO., INC./JAMES D. CURTIS, 994 Beaver Drive, DuBois, PA 15801
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to
produce the following documents or things:

Set forth on the Exhibit attached to this Subpoena.

At the following address:

Beard Law Company, 320 Rolling Ridge Drive, Suite A, Bellefonte, PA 16823
(Address)

You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty
(20) days after its service, the party serving this subpoena may seek a court order compelling you
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

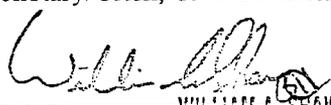
NAME: RODNEY A. BEARD, ESQUIRE
ADDRESS: 320 ROLLING RIDGE DR, STE A
BELLEFONTE PA 16823
TELEPHONE: (814) 548-0028
SUPREME COURT ID # 49909
ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, September 19, 2005
Seal of the Court

Deputy


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

EXHIBIT

TO: SWIFT KENNEDY FINANCIAL CO., INC./JAMES CURTIS

The documents or things to be produced for discovery pursuant to Rule 4009.22 in accordance with the subpoena issued in the above captioned matter are as follows:

Any and all documents pertaining to: 1) the right of first refusal of Swift Kennedy Financial Co., Inc., to repurchase any portion of the business commonly known as Swift, Kennedy & Associates, Inc., 2) the sales agreement whereby Swift Kennedy Financial Co., Inc., purchased the insurance/financial business from Matthew Ruttinger in or about 1997, 3) communications by Steve Volpe, or anyone representing or acting for Steve Volpe, regarding the terms of the proposed agreement whereby Helpmates, Inc., was to purchase Swift, Kennedy & Associates, Inc., from Steve Volpe, 4) communications received by you from David Hopkins regarding the terms of the proposed agreement whereby Helpmates, Inc., was to purchase Swift, Kennedy & Associates, Inc., from Steve Volpe, and 5) communications made by you to Steve Volpe or anyone on behalf of Steve Volpe regarding removal or waiver of the right of first refusal which you had to purchase Swift, Kennedy & Associates, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Prerequisite to Service of a Subpoena was served by
U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 10th day of
March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3-10-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate Prerequisite
to Service of a Subpoena Pursuant
to Rule 4009.21

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

FILED ^{NO CC}
M 110:57/64
MAR 13 2008 (LW)

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

:
:
:
:
:
:
:
:
:
:

No. 03-1867-CD

CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.21

As a prerequisite to service on David J. Hopkins/The Hopkins Law Firm of a subpoena for documents and things pursuant to Rule 4009.22, Swift, Kennedy & Associates, Inc./Helpmates, Inc., certifies that:

1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Respectfully submitted:

3-10-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Notice of Intent to Serve
Subpoena to Produce Documents and
Things For Discovery Pursuant to Rule
4009.21

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Swift, Kennedy & Associates, Inc./Helpmates, Inc., intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted:

Date

10/21/05


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Intent to Serve Subpoena was served by U.S.

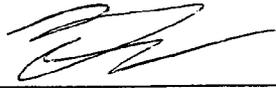
First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 21st day of

October, 2005, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

10/21/05


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Stephen R. Volpe
Plaintiff(s)

*

Vs.

*

No. 2003-01867-CD

Swift Kennedy and Associates, Inc.
Helpmates, Inc.
Defendant(s)

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: DAVID HOPKINS, ESQUIRE, The Hopkins Law Firm, 900 Beaver Drive, DuBois, PA 15801

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to
produce the following documents or things:

Set forth on the Exhibit attached to this Subpoena.

At the following address:

Beard Law Company, 320 Rolling Ridge Drive, Suite A, Bellefonte, PA 16823
(Address)

You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty
(20) days after its service, the party serving this subpoena may seek a court order compelling you
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RODNEY A. BEARD, ESQUIRE

ADDRESS: 320 ROLLING RIDGE DR, STE A
BELLEFONTE PA 16823

TELEPHONE: (814) 548-0028

SUPREME COURT ID # 49909

ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy



WILLIAM A. SHAW
Prothonotary

My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

DATE: Monday, September 19, 2005
Seal of the Court

EXHIBIT

TO: DAVID HOPKINS

The documents or things to be produced for discovery pursuant to Rule 4009.22 in accordance with the subpoena issued in the above captioned matter are as follows:

All documents pertaining to: 1) the sale by Matthew Ruttinger of the insurance and/or financial business to Stephen R. Volpe and Swift, Kennedy & Associates, Inc., 2) the sale by Matthew Ruttinger of the insurance/financial business to James Curtis/Swift Kennedy Financial Co., Inc., 3) the right of first refusal of either Matthew Ruttinger and/or Swift Kennedy Financial Co., Inc./James Curtis to repurchase the business of Swift, Kennedy & Associates, Inc., on a right of first refusal basis, 4) communications provided by you to Swift Kennedy Financial Co., Inc./James Curtis and/or Matthew Ruttinger (and/or his estate or nominee) regarding the right of first refusal to repurchase the business of Swift, Kennedy & Associates, Inc., when Helpmates, Inc., purchased the business of Swift, Kennedy & Associates, Inc., in or about 2002, 5) communications made by you to Swift Kennedy Financial Co., Inc., and/or James Curtis regarding the terms of the proposed agreement whereby Helpmates, Inc., was to purchase Swift, Kennedy & Associates, Inc., from Steve Volpe, and 6) communications received by you from Matthew Ruttinger (and/or his estate or nominee) and/or Swift Kennedy Financial Co., Inc./James Curtis regarding the waiver of the right of first refusal to repurchase the business of Swift, Kennedy & Associates, Inc., from Steve Volpe.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Prerequisite to Service of a Subpoena was served by
U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 10th day of
March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3-10-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,	:	
Plaintiff	:	
	:	
v.	:	No. 03-1867-CD
	:	
SWIFT, KENNEDY & ASSOCIATES, INC.,	:	
and HELPMATES, INC.,	:	
Defendants	:	

ORDER

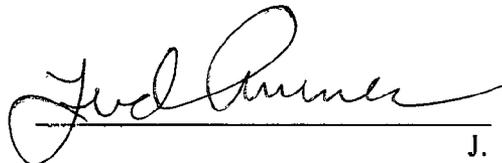
AND NOW, this 10th day of March, 2006, upon consideration of the Defendants' Motion for Partial Summary Judgment, and pursuant to Local Rule 1035.2(a), it is the ORDER of this Court as follows:

1. The Plaintiff shall file a written response to said Motion within thirty (30) days after service thereof;

2. Defendants have already filed a Brief in support of said Motion. Therefore, Plaintiff shall file a reply brief within twenty (20) days after receipt of Defendants' Brief;

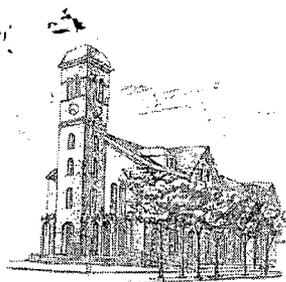
3. Oral argument on the said Motion shall be heard by the Court on May 11, 2006, at 9:00 A.m., Courtroom #1, Clearfield County Courthouse.

BY THE COURT:


J.

FILED
014:0061
MAR 13 2006

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/13/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Praecipe

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

FILED ¹⁰⁰cc Atty
no 10-2-2006 (copy with
MAR 14 2006 each transcript)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

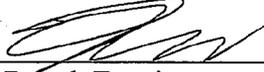
SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Praecipe was served by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 10th day of March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3-11-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate of Service

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

FILED *no cc*
m10:316
MAR 20 2006

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that I have served the attached Order in the above captioned matter by
U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 14th day of
March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3-16-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

:
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:
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:
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:
:

No. 03-1867-CD

ORDER

AND NOW, this 10th day of March, 2006, upon consideration of the Defendants' Motion for Partial Summary Judgment, and pursuant to Local Rule 1035.2(a), it is the ORDER of this Court as follows:

1. The Plaintiff shall file a written response to said Motion within thirty (30) days after service thereof;

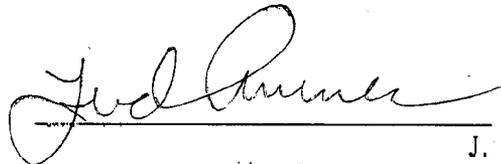
2. Defendants have already filed a Brief in support of said Motion.

Therefore, Plaintiff shall file a reply brief within twenty (20) days after receipt of Defendants' Brief;

3. Oral argument on the said Motion shall be heard by the Court on

May 11, 2006, at 9:00 A.m., Courtroom #1, Clearfield County Courthouse.

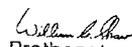
BY THE COURT:



J.
I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAR 13 2006

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : CERTIFICATE OF
SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

MAR 29 2006

0/1156
William A. Shaw
Prothonotary/Clerk of Courts

3 sent to Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

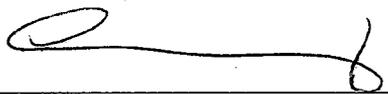
CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Brief in support of Plaintiff's motion for summary judgment in the above-captioned matter to the following parties by hand delivery and postage prepaid United States first class mail on the 29th day of March, 2006:

HAND DELIVERY:
David S. Meholick, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

POSTAGE PREPAID UNITED STATES FIRST CLASS MAIL:
Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE, :
Plaintiff :

v. :

SWIFT KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

No. 03-1867-CD

FILED 500
013:34/31 Amy Belin
APR 07 2006 5

AFFIDAVIT

William A. Shaw
Prothonotary/Clerk of Courts

I, the undersigned Stephen R. Volpe, hereby make the following Affidavit and statement of facts pertaining to my knowledge of the facts in the above captioned matter and I verify that the facts set forth below are true and correct to the best of my knowledge and belief:

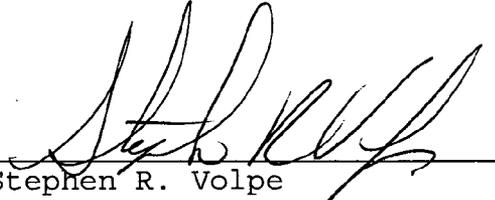
My name is Stephen R. Volpe. I am an adult individual, and I reside at 1011 East DuBois Avenue, DuBois, Pennsylvania 15801 and I was employed by Swift Kennedy Associates ("SKA") at the time of the following event.

That Gary Carlson came to the offices of SKA in late September or October 2002 and saw me in my office; he told me he was looking for Jerry Calistri ("Calistri"). Calistri was not at the office; he told me that he wanted Calistri to know that if Calistri went to jail as a result of his criminal plea, that Gary would continue his paycheck.

Gary appeared to be agitated when was talking to me so I asked him, "Gary what's wrong? Is something bothering you?"

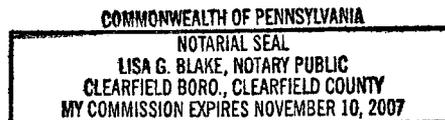
He said he thought his son [Scott Carlson] was a better businessman. When I asked him what he meant by that, he said that he was upset with the sales agreement. I asked him what part and he said he didn't like the part that I was driving a Cadillac and they were paying for it. I told him this was pretty much standard, that Ed Hopkins had his car for ten (10) years when he was no longer working at the business. He did not accept my explanation, I asked him what else was bothering him, and he said the contract provides he has to pay me as long as I wanted to renew the contract. I responded that you only have to pay me for five (5) years and the rest will be commissions. He responded, "read your contract, its at your discretion to renew that." He then left the premises. After this meeting, I had no further direct contact with him to the best of my knowledge until after I was terminated at SKA.

Dated: 4-7-06


Stephen R. Volpe

SWORN and SUBSCRIBED
before me on the
7th day of April 2006.


Notary Public



10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED *JCC*
0/3:34/301 Amy Belin
APR 07 2006 *lm*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

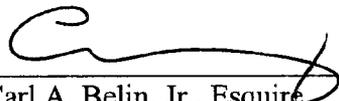
SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Plaintiff's Answer to Defendant's Request for Production of Documents (Set two) in the above-captioned matter to the following party by postage prepaid United States first class mail on the 7th day of April, 2006:

Rodney A. Beard, Esquire
2766 West College Avenue, Suite 100
State College, PA 16801

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.,
AND HELPMATES, INC.,
Defendants

No. 03-1867-CD

JURY TRIAL DEMANDED

PLAINTIFF'S ANSWER TO
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 5cc
10/3:34cd
APR 07 2006
Att'y Belin
LSM

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

**PLAINTIFF'S ANSWER TO DEFENDANTS'
MOTION FOR PARTIAL SUMMARY JUDGMENT**

AND NOW comes the Plaintiff, Stephen R. Volpe ("Volpe") and files the following answer to Defendants' Swift Kennedy & Associates, Inc. ("SKA") and Helpmates, Inc. ("HI") Motion for Partial Summary Judgment and in support thereof avers as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is denied and in further answer thereto Paragraphs 3 through 17 of this Answer are hereby incorporated by reference and made a part hereof. In further answer thereto, Volpe incorporates his deposition and the affidavit submitted herewith. He also submits parts of the deposition of Darrin Carlson, Rodney Moline, and Jerry Callistri.

Termination of Employment

3. Paragraph 3 is admitted.

4. Paragraph 4 is denied and in further answer thereto Paragraphs 11 through 16 of the Complaint are hereby incorporated by reference and made a part hereof. In further answer thereto, Volpe alleges as follows:

(a) Volpe worked five (5) hours per week pursuant to Judge Reilly's interim order dated April 17, 2003, in the Declaratory Judgment action from February 2002 to July 9, 2003, until Judge Reilly issued his opinion;

(b) Volpe worked forty (40) hours per week after he received notice of the opinion until he was suspended with pay on August 19, 2002;

(c) Volpe offered to return to work in accordance with the directives of SKA and HI, including working a forty (40) hour week on September 8, 2003;

(d) that notwithstanding Volpe's offer which was what the representatives of SKA and HI sought by the suspension, SKA and HI did not give Volpe an opportunity to return to work but terminated him while suspended;

(e) that Volpe avers that SKA and HI had no intention of returning Volpe to work but used the suspension as a means to terminate the contract as no reason was given for the suspension nor was one ever given except the letter of termination, SKA's

and HI's attorney alleged "Volpe no longer wanted to work for SKA;"

(f) that Volpe avers that the dispute about hours that led to the underlying dispute occurred after the party who represented SKA and HI in the negotiations and culmination of the sale left the employment of HI; that the treatment of Volpe thereafter, the suspension and termination were calculated to avoid the obligations in the Employment Agreement.

5. Paragraph 5 is denied and in further answer thereto, Paragraph 4 of this Answer is hereby incorporated by reference and made a part hereof.

Liability of Helpmates

6. Paragraph 6 is denied and it is averred the Employment Agreement was a part of the Stock Sales Agreement as set forth in Section 25 which obligated HI to cause the Employment Agreement to be executed as a part of the Agreement of Sale; said Employment Agreement was attached as Exhibit E, and which Employment Agreement was amended by the Second Addendum of the Stock Purchase Agreement to which HI was the buyer and signatory. As a result HI was a party and is liable for any breach of the employment contract. In further answer thereto, HI was directly involved as to Volpe through its officers and board of directors throughout Volpe's employment by SKA and made

the decision first to suspend him and then to terminate him as a result of which it is liable, along with SKA, from his termination.

Return of Compensation

7. Paragraph 7 is admitted in part. The issue arose in the pleadings of the Declaratory Judgment action at Clearfield County Court of Common Pleas CA 03-225-CD. Judge Reilly had issued an interim Order on April 17, 2003, that:

"Pending said hearing and determination thereof, Plaintiff shall be required to work for Defendant on the basis of five hours a week with the Defendant to schedule said hours at Defendant's convenience. In the event that Defendant is successful in the Declaratory Judgment action, either Defendant or Helpmates, Inc. may petition the Court to off-set all or part of said compensation paid from date hereof to the date of the determination of the Declaratory Judgment action."

8. Paragraph 8 is admitted. It is further averred that SKA and HI filed a petition to recover compensation in CA 03-225-CD which it did not pursue in the case before Judge Reilly.

9. Paragraph 9 is admitted.

10. Paragraph 10 is admitted.

11. Paragraph 11 is admitted in part that Defendants are entitled to repayment of part of the compensation paid to

Plaintiff from the date of the Order referred to above to the date of determination of the matter in CA 03-225-CD, and for the amount set forth in their petition to recover compensation filed in that action.

12. Paragraph 12 is denied in that the amount of compensation paid to Plaintiff was \$8,076.00.

13. Paragraph 13 is denied and it is averred that Defendants are entitled to recover the amount claimed by them in their petition to recover compensation in the amount of \$7,068.60.

No Claim on Guaranty

14. Paragraph 14 is denied as averred. It is admitted that Plaintiff seeks judgment against HI in the amount of \$500,000.00 for failure to submit a life insurance policy in the amount of \$500,000.00 to guaranty the payments due under the Stock Purchase Agreement.

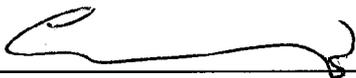
15. Paragraph 15 is admitted, however, HI remains liable to Plaintiff for payments under the Agreement which will be due on or about May 1, 2006 and for a potential payment of \$1,000,000.00 in the event SKA is sold before April 30, 2012. In any event, HI has violated the first addendum in failing to secure a \$500,000.00 life insurance policy on the life of Scott Carlson to collateralize his guarantee.

16. Paragraph 16 is denied and in further answer thereto Paragraphs 1 through 31 of the Complaint and Paragraphs 33 through 104 of Plaintiff's Reply to New Matter and Counterclaim are hereby incorporated by reference and made a part hereof.

17. Paragraph 17 is denied and in further answer thereto Paragraphs 15 and 16 of this Answer are hereby incorporated by reference and made a part hereof.

WHEREFORE, Plaintiff respectfully requests Your Honorable Court to deny Defendants' Motion for Partial Summary Judgment as to the following subjects: (a) termination of employment; (b) no liability of HI; (c) no claim of guaranty; and admits partial summary judgment may be entered to the extent of the return of compensation in the amount of \$7,068.60.

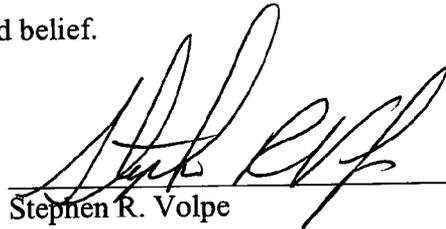
BELIN & KUBISTA



Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF CLEARFIELD :

Before me, the undersigned, personally appeared STEPHEN R. VOLPE, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Answers to Defendants' Motion for Partial Summary Judgment attached thereto are true and correct to the best of his knowledge, information and belief.


Stephen R. Volpe

SWORN and SUBSCRIBED before me this 17th day of April, 2006.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
LISA G. BLAKE, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD COUNTY
MY COMMISSION EXPIRES NOVEMBER 10, 2007


notary public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC.,
Defendants

No. 03-1867-CD

JURY TRIAL DEMANDED

PLAINTIFF'S ANSWERS TO
REQUEST FOR ADMISSIONS
AND ACCOMPANYING
INTERROGATORY

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

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W

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

vs.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendant

No. 03-1867-CD

PLAINTIFF'S ANSWERS TO REQUESTS FOR
ADMISSIONS AND ACCOMPANYING INTERROGATORY

NOW COMES the Plaintiff, STEPHEN R. VOLPE, by and through his attorney, Carl A. Belin, Jr., and sets forth the following Answers to Requests for Admissions and Accompanying Interrogatory:

1. Request No. 1 is denied; I worked forty (40) hour weeks after receiving notice of Judge Reilly's decision until I was suspended with pay on August 17, 2003. I also offered to continue working a forty (40) hour week at a meeting with SKA and HI on September 8, 2003 which was rejected by SKA and HI.

2. Request No. 2 is denied; I advised SKA of my work activities after July 15, 2003 and advised SKA of my contacts with prospective clients as all existing clients had been removed from my responsibilities by prior directives.

3. Request No. 3 is denied; I incorporate my answers to requests for admissions one (1) and two (2) hereto as further answer to Request No. 3.

4. Request No. 4 is admitted; but the contents of the letter are incorrect. The second paragraph refers to a meeting with Mr. Calistri in State College when he was on work release under a criminal judgment. I was advised that I would not be paid for my travel

from DuBois to State College and the return thereof to meet with Mr. Calistri and that was the source of my aggravation. I did not refuse to meet with Mr. Calistri and, in fact, met with him at SKA's request in State College.

The meeting with A.B. Hallstrom was a social affair involving skeet shooting. This was a regular event in which I was promoting SKA to Mr. Hallstrom and other people present at the affairs.

The Catholic Social Services item was incorrect as they were not a client of SKA and I had heard they were unhappy with their present insurance due to a premium hike. I was attempting to see if SKA could take advantage of their displeasure to recruit a new client.

I did keep Mr. Calistri advised of my invitations to meetings with vendors in 2003 and, in fact, was told by Mr. Calistri that I was not to attend training sessions with UPMC and Blue Cross at that time. As a result, I did not attend those meetings.

I had not entered the office when this letter was written as the locks had been changed and I had no key to enter the office except when others were present.

5. Request No. 5 is objected to; this request is objected to as a violative of Pa. R.C.P. No. 4003.1 in that it seeks an admission which would be inadmissible at trial and is not reasonably calculated to lead to the discovery of admissible evidence.

6. Request No. 6 is denied; the Order of Judge Reilly was appealed to the Superior Court. Its Order affirming Judge Reilly at No. 423 WDA 2004 is the final, unappealable Order.

7. Request No. 7 is admitted; it is further averred the Superior Court affirmed Judge Reilly as follows:

“In this case, the language of the contract is not ambiguous and provides that Appellant work a minimum of five hours a week; the agreement is silent as to

the maximum number of hours Appellant is required to work. In light of this fact, Appellant's attempt to have us substitute "at most" for "at least" based on the facts and circumstances surrounding the contract's formation fails. The fact that the language in the prior draft setting average hours was omitted from the final draft in favor of the present version, which actually supports the argument that there was to be no maximum hour requirement, is of no moment if the contract terms are not ambiguous.

As we conclude that the trial court correctly determined that the contract language does not set forth a maximum work week, we affirm."

8. Request No. 8 is denied; the contract language does not set forth a maximum work week. It is further averred that no agreement was ever reached as to the maximum hours to be worked, although, I did work forty (40) hours per week from the time I received notice of Judge Reilly's decision until I was suspended with pay on August 17, 2003 and I offered to work forty (40) hours a week on September 8, 2003 which was rejected by SKA.

9. Request No. 9 is admitted that Schedule "A" was attached to the employment agreement but it is averred that Schedule "A" was a separate contract and was a related contract to the employment agreement.

10. Request No. 10 is admitted; but it is averred that it was contemplated by the parties that the health insurance benefits would be provided by SKA until I reached "medicare eligibility" age, consequently I would not be paid for this benefit while SKA was providing it to me.

11. Request No. 11 is objected to; this request is objected to as a violative of Pa. R.C.P. No. 4003.1 in that it seeks an admission which would be inadmissible at trial and is not reasonably calculated to lead to the discovery of admissible evidence.

12. Request No. 12 is denied; it is averred I received \$35,000.00 per year under the contract. The weekly wage would have been \$673.08 ($\$35,000.00 \div 52$) and the

period involved is twelve (12) weeks - $\$673.08 \times 12 = \$8,076.92$. I admit I received \$8,076.92 during this period. It is further averred that this is the same amount set forth in SKA and HI's petition to recover compensation in the declaratory judgment action CA 03-225-CD.

ANSWER TO INTERROGATORY

1a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

1b. None.

1c. See answer to 1a.

1d. See answer to 1a.

1e. See answer to 1a.

2a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

2b. None.

2c. See answer to 2a.

2d. See answer to 2a.

2e. See answer to 2a.

3a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

3b. None.

3c. See answer to 3a.

3d. See answer to 3a.

3e. See answer to 3a.

6a. See record of appeal in the Superior Court to No. 423 WDA 2004.

6b. None.

6c. See answer to 6a.

6d. See answer to 6a.

6e. See answer to 6a.

8a. See exhibits to Complaint (attached to Defendant's Answer, New Matter and Counterclaim), deposition of Stephen R. Volpe and deposition of Scott Carlson. See also Answer to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I).

8b. None.

8c. See answer to 8a.

8d. See answer to 8a.

8e. See answer to 8a.

12a. See arithmetical computation in Request and Petition to Recover Compensation file at CA 03-225-CD.

12b. None.

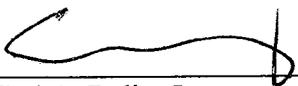
12c. See answer to 12a.

12d. See answer to 12a.

12e. See answer to 12a.

Respectfully submitted,

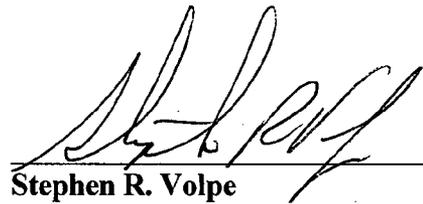
BELIN & KUBISTA



Carl A. Belin, Jr.
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA :
 :
COUNTY OF CLEARFIELD : SS
 :

Before me, the undersigned, personally appeared STEPHEN R. VOLPE, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Answers to Requests for Admissions and Interrogatory attached thereto are true and correct to the best of his knowledge, information and belief.



Stephen R. Volpe

SWORN and SUBSCRIBED before me this 7th day of April, 2006.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
LISA G. BLAKE, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD COUNTY
MY COMMISSION EXPIRES NOVEMBER 10, 2007



notary public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC.,
Defendants

No. 03-1867-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

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Amy Belin
(initials)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

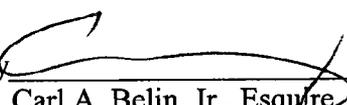
SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC. :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Brief IN Opposition to Defendant's Partial Motion for Summary Judgment in the above-captioned matter to the following party by postage prepaid United States first class mail on the 7th day of April, 2006:

Rodney A. Beard, Esquire
2766 West College Avenue, Suite 100
State College, PA 16801

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Praecipe

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

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William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

PRAECIPE

TO THE PROTHONOTARY:

Kindly file the attached Affidavit of Linda Barnacastle in the above captioned matter.

Respectfully submitted:

4-7-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
 :
v. : No. 03-1867-CD
 :
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

AFFIDAVIT

I, the undersigned Linda Barnacastle, hereby make the following Affidavit and statement of facts pertaining to my knowledge of the facts in the above captioned matter. I make this affidavit knowingly, willingly, and voluntarily, and I verify that the facts set forth below are true and correct to the best of my knowledge and belief.

1. My name is Linda Barnacastle. I am an adult individual, and I reside at 17067 Route 28, Brookville, Pennsylvania.
2. I am employed by Swift, Kennedy & Associates, Inc. Prior to my employment with Swift, Kennedy & Associates, Inc., I was employed by Swift Kennedy Financial. During the time that I was employed by Swift Kennedy Financial, Ted Ruttinger was my supervisor and Stephen R. Volpe also worked for Swift Kennedy Financial. From approx 1996, until 2002, I worked for Swift, Kennedy & Associates, Inc., and Stephen R. Volpe was my supervisor.
3. Since I became an employee of Swift, Kennedy & Associates, Inc. (hereinafter "SKA"), I have been familiar, and continue to be familiar with, the office operations and activities of sales personnel for SKA.

4. During my employment with SKA, I had occasion to become familiar with the work habits of Stephen Volpe.

5. Although I did not keep detailed records of Mr. Volpe's activities, I realized that after Mr. Volpe sold his stock in SKA he did not come into the office as regularly as he previously did prior to the sale and Mr. Volpe was not communicating regularly with office personnel.

6. In the insurance business, it is very important that all office personnel communicate with one another in regard to client requests for information and customer service issues for clients so that all personnel are knowledgeable and adequately apprised of the needs of clients.

7. During May, 2003, I communicated with Mr. Volpe at his home in regard to sales of a group insurance policy for a client of SKA. In this regard I communicated with Mr. Volpe via email from his home because he was not working in the office at that time.

8. During July, 2003, Mr. Volpe began appearing at the office more frequently and during more regular work hours. However, Mr. Volpe was often not dressed appropriately, and the primary activities that he engaged in were reading the newspaper and tracking activities of other office personnel. To the best of my knowledge, Mr. Volpe did not engage in any significant sales activities on behalf of SKA during July and August, 2003.

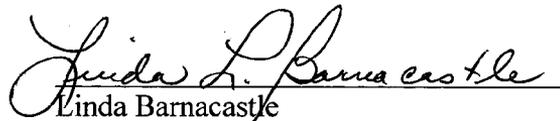
9. Through my involvement in the insurance industry in the DuBois, Pennsylvania, area, I learned that an individual named Larry Lecker was a significant producer of business for SKA. Mr. Lecker worked under an independent producer arrangement, and he was not an employee of SKA.

10. Through personal discussions that I had with Mr. Larry Lecker in approximately November, 2002, in my capacity as an employee of SKA, I became aware that Mr. Volpe had communicated with Mr. Lecker regarding the business of SKA, and as a result of that communication with Mr. Volpe, Mr. Lecker related to me that he was concerned whether SKA was going to continue operating, and whether Mr. Lecker was going to continue receiving his commissions as a producer of SKA. Mr. Lecker also related to me that Mr. Volpe had revealed to him details of the sale transaction with Helpmates, Inc., and information about salaries of employees at SKA.

11. It would be very detrimental for SKA to have any of its producers, particularly a large producer like Larry Lecker, concerned about whether SKA was going to continue operations.

12. In my opinion, it was inappropriate for Mr. Volpe to communicate anything negative to Mr. Lecker about the business of SKA or any privileged and confidential information about the business of SKA.

Dated: 4/3/06


Linda Barnacastle

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Praecipe was served by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 2⁹ day of April, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

4-7-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

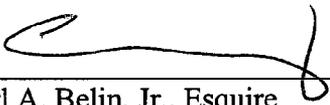
SWIFT KENNEDY & ASSOCIATES, INC.:
AND HELPMATES, INC.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Plaintiff's Answers to Request for Admissions and Accompanying Interrogatory in the above-captioned matter to the following party by postage prepaid United States first class mail on the 7th day of April, 2006:

Rodney A. Beard, Esquire
2766 West College Avenue, Suite 100
State College, PA 16801

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate of Service

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

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ICC
R. A. Beard

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has filed the original of Defendants' Brief in Opposition to Plaintiff's Motion for Partial Summary Judgment in the above captioned matter with the Court Administrator's Office, in the Clearfield County Courthouse, Clearfield, Pennsylvania, and has sent a true and correct copy of the Brief to the following party by U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 18th day of April, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

4-18-06


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
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(814) 548-0028 phone
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: MOTION TO COMPEL
ANSWERS TO REQUESTS FOR
ADMISSIONS

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

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CR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
 :
v. : No. 03-1867-CD
 :
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

MOTION TO COMPEL ANSWERS TO REQUESTS FOR ADMISSIONS

AND NOW, comes Swift, Kennedy & Associates, Inc. (SKA) , and Helpmates, Inc. (HI), by and through their undersigned counsel, and states the following Motion to Compel Plaintiff, Stephen R. Volpe, to provide Answers to Requests for Admissions previously served upon Plaintiff.

1. On or about March 10, 2006, counsel for SKA and HI served Requests for Admissions and accompanying Interrogatory upon Volpe.
2. A true and correct copy of the Request for Admissions and accompanying Interrogatory is attached hereto, marked Exhibit A, and incorporated herein.
3. On or about April 8, 2006, Volpe provided Answers to the Request for Admissions and Accompanying Interrogatory.
4. A true and correct copy of the Answers provided by Volpe to the Request for Admissions and Accompanying Interrogatory is attached hereto, marked Exhibit B, and incorporated herein.
5. Two of the Requests for Admissions served upon Volpe stated the following items:

- a. Admit that the action you have commenced against David Hopkins in the Court of Common Pleas of Clearfield County, Pennsylvania, to Case No. 2005-0069-CD is based upon a claim that David Hopkins committed professional negligence in regard to his representation of you in the transaction whereby Helpmates, Inc., purchased all the stock that you owned in SKA.
 - b. Admit that you did not include the value of health insurance benefits to age 65 as part of your income (whether capital gain or otherwise) reported on your personal income tax return for 2002 or any subsequent year.
6. Volpe objected to the two questions set forth above on relevancy grounds.
 7. The first question set forth above is relevant to show that the documents regarding the transaction were not drafted in accordance with Volpe's wishes, and Volpe is not satisfied with the terms of the documents.
 8. The second question set forth above is relevant to show the intentions of Volpe regarding treatment of his health insurance benefits; e.g., whether the health insurance benefits were part of the sale price of the business or whether the health insurance benefits were part of the Employment Agreement.
 9. If a piece of evidence tends to make a conclusion more or less likely, the evidence is relevant.
 10. Volpe's claim of professional negligence against his counsel and his tax treatment of the health insurance benefits will assist the trier of fact in making the determination, *inter alia*, whether Volpe was performing in accordance with the terms of the documents and whether

the health insurance benefits were part of the sale price of the business or whether the health insurance benefits were part of the Employment Agreement.

WHEREFORE, SKA and HI respectfully request this Honorable Court enter an Order compelling Volpe to remove his objection to the questions listed above, and provide answers to the questions, and to reimburse SKA and HI for expenses incurred in setting forth this Motion.

Respectfully submitted:

5/10/06
Date



Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Defendants' Requests for
Admissions and Accompanying
Interrogatory to Plaintiff

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

EXHIBIT

A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
 :
v. : No. 03-1867-CD
 :
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

TO: STEPHEN R. VOLPE
c/o Carl A. Belin, Jr., Esquire
Belin & Kubista
P.O. Box 1
Clearfield, PA 16830

**DEFENDANTS' REQUESTS FOR ADMISSIONS AND ACCOMPANYING
INTERROGATORY TO PLAINTIFF**

Pursuant to *Pa. R.C.P. No. 4014*, Defendants, Swift, Kennedy & Associates, Inc., and Helpmates, Inc., by their undersigned attorney, hereby request that Plaintiff, Stephen R. Volpe, make the following admissions within thirty (30) days after service, for the purposes of this action only and subject to all pertinent objections as to relevancy which may be interposed at the trial of this case. In addition, pursuant to *Pa. R.C.P. No. 4005*, Defendants hereby request that Plaintiff answer under oath the following interrogatory. Responses to these requests and interrogatory are to be served within thirty (30) days after service upon Defendants' attorney.

INSTRUCTIONS

1. These requests for admissions and accompanying interrogatory are directed to the Plaintiff, Stephen R. Volpe, his officers, employees, agents, servants, assigns, representatives, past and present, and unless privilege is claimed, each and every attorney, past and present, of each and every such individual or entity. As used herein, "you" and "your" means the party to which these requests for admissions and accompanying interrogatory are addressed, his officers, employees, agents, servants, assigns, representatives, past and present, and each and every attorney, past and present, of each and every such individual or entity.

2. These requests for admissions and accompanying interrogatory encompass all information, documents and records that are in the possession, control, or custody of Plaintiff or any of its officers, employees, agents, servants, attorneys, and assigns.

3. If any objections are made to any request for admission or to the accompanying interrogatory, the reasons therefor shall be stated.

4. If there is any claim of privilege relating to any request to admit, or interrogatory, you shall set forth fully the basis for the claim of privilege, including the facts upon which you rely to support the claim of privilege in sufficient detail to permit the court to rule on the propriety of the privilege.

5. If your response to any request is not an unqualified admission, your answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter.

6. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify your answer or deny only a part of the matter of which an admission is requested, you should specify so much of it as is true and qualify or deny the remainder.

7. You may not give lack of information or knowledge as a reason for failure to admit or deny, unless you state that you have made reasonable inquiry and that the information known to you or readily obtainable by you is insufficient to enable you to admit or deny.

8. These requests for admission and interrogatory are continuous in nature and must be supplemented promptly if defendant obtains or learns further or different information between the date of the response and the time of trial by which Plaintiff knows that a previous response was incorrect when made, or though correct when made, is then no longer true.

9. Unless otherwise indicated, the time period to which these requests for admission and interrogatory are directed is from on or about January 1, 2001, through the present.

10. This request may seek the admission of the genuineness of various documents. In some cases, there are printed number and letter codes that run along the bottom of particular documents. In other cases, the word "evidence" and other identification marks may be affixed to the document. Such numbers, letters and identifying words were affixed during the accumulation and copying of the documents for this case and are not to be considered part of the document itself, except for purposes of referencing the document. The request does not seek defendant's admission regarding the accuracy and genuineness of those numbers and letters, but only of the document on which those numbers and letters have been placed.

DEFINITIONS

1. All verbs are intended to include all tenses.
2. References to the singular are intended to include the plural and vice versa.
3. "Any" as well as "all" shall be construed to mean "each and every."

4. "And" as well as "or" shall be construed disjunctively as well as conjunctively, as necessary, in order to bring within the scope of these requests all information that might otherwise be construed to be outside their scope.

5. "Refer to" or "relate to" means constituting, defining, describing, discussing, involving, concerning, containing, embodying, reflecting, identifying, stating, analyzing, mentioning, responding to, referring to, dealing with, commenting upon, or in any way pertaining to.

6. "SKA" shall mean Swift, Kennedy & Associates, Inc.

REQUEST FOR ADMISSIONS

1. Admit that, subsequent to July 15, 2003, you did not want to work more than five (5) hours per week for SKA.

2. Admit that, subsequent to July 15, 2003, you refused to obey directives of SKA in regard to keeping management of SKA informed of your work activities and communications with clients and customers of SKA.

3. Admit that, subsequent to July 15, 2003, you failed to work diligently and loyally for SKA.

4. Admit that you received a copy of the correspondence dated April 30, 2003, from Rodney A. Beard, Esquire, to your counsel, David J. Hopkins, Esquire, a true and correct copy of which is attached hereto, marked Exhibit A, and incorporated herein.

5. Admit that the action you have commenced against David Hopkins in the Court of Common Pleas of Clearfield County, Pennsylvania, to Case No. 2005-0069-CD is based upon a claim that David Hopkins committed professional negligence in regard to his representation of you in the transaction whereby Helpmates, Inc., purchased all the stock that you owned in SKA.

6. Admit that the Order entered by the Honorable John K. Reilly in Case No. 2003-225, dated July 9, 2003, is a final, non-appealable order.

7. Admit that the Order entered by John K. Reilly, Jr., in Case No. 2003-225, dated July 9, 2003, determined that the Employment Agreement between you and SKA was not ambiguous.

8. Admit that the Order entered by John K. Reilly, Jr., in Case No. 2003-225, dated July 9, 2003, required that you work more than five (5) hours per week for SKA.

9. Admit that entitlement to health insurance coverage was part of your Employment Agreement with SKA.

10. Admit that you did not receive payment for the value of health insurance benefits to age 65 from SKA or Helpmates, Inc., as of April 30, 2002.

11. Admit that you did not include the value of health insurance benefits to age 65 as part of your income (whether capital gain or otherwise) reported on your personal income tax return for 2002 or any subsequent year.

12. Admit that the amount of compensation paid to you by SKA from the period April 17, 2003, to July 10, 2003, was \$8,886.22.

INTERROGATORY

1. Plaintiff hereby requests that for each request for admission set forth above which you deny, in whole or in part, state:

- a. all facts, information and matters, including relevant dates, times and places, upon which your denial is based;
- b. any statutory, regulatory provision(s) or other legal basis upon which your denial is based;
- c. the identity by name, address, phone number, and employment title of all persons with information or matters upon which your denial is based;
- d. a summary of the information or knowledge possessed by each such person; and
- e. the identity and description of all documents that refer or relate to the facts, information and matters upon which your denial is based.

Respectfully submitted:

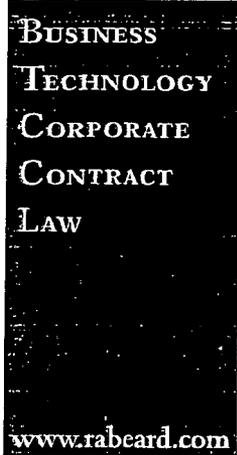
3-10-06
Date



Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com



Rodney A. Beard, P.C.
Attorney at Law



814.237.3101 ph.
814.237.3102 fax

2766 W. College Ave.
Suite 4
State College, PA 16801

April 30, 2003

VIA FACSIMILE to (814) 375-5035

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

Re: Scheduling Work Hours for Steve Volpe

Dear Mr. Hopkins:

I received your correspondence of April 29, 2003, regarding the above referenced matter, and of course I am somewhat concerned. Your correspondence (which I must presume was authorized by Mr. Volpe) shows the continuing flagrant disregard by Mr. Volpe of the fact that he is an employee of Swift Kennedy. As an employee, Mr. Volpe is not entitled to prescribe his work activities, and it is not up to him to tell Swift Kennedy which customers he will contact and when.

The work schedule proposed by Swift Kennedy certainly was not designed to aggravate Mr. Volpe. In our discussions, we felt it may be most useful to have Mr. Calistri and Mr. Volpe spend some time together. Because Mr. Calistri is the manager of Swift Kennedy, we did not think Mr. Volpe would be opposed to this. In any event, it must be made clear to Mr. Volpe that he does not set his work schedule. Judge Reilly's Order specifically provided that Mr. Volpe's hours would be at the convenience of Swift Kennedy. For Mr. Volpe to attempt to dictate his schedule and/or his work activities is not acceptable. Please consider this communication as a written warning that Mr. Volpe's employment will be terminated for cause if he continues to ignore the direction and policies of Swift Kennedy.

In regard to the schedule proposed by Mr. Volpe for this week, the items for Monday and Tuesday, although not acceptable, are already done. Hopefully, nothing bad will result from Mr. Volpe's unilateral actions on these matters. His complete failure and refusal to communicate with Mr. Calistri causes great risk for Swift Kennedy. For instance, A.B. Halstrom is already a customer of Swift Kennedy serviced through Tammy Jewel. Obviously, Swift Kennedy will look rather silly and disorganized in not being able to coordinate the activities of its



employees in an orderly fashion. This is unacceptable, and if Mr. Volpe continues to refuse to communicate in advance with Mr. Calistri regarding his actions, his employment will be terminated for cause. Swift Kennedy will not tolerate such activity by any of its employees.

Also, your letter indicates that Catholic Social Services "expressed concerned," over an increase in their premiums. Swift Kennedy has no knowledge of this, and it is completely unacceptable for Mr. Volpe to be hiding such information from Swift Kennedy. His continuing refusal to provide such information to Swift Kennedy will result in termination of his employment for cause.

In addition, your letter does not indicate the personnel at UPMC with whom Mr. Volpe had planned to meet, or the purpose of the meeting. It is unacceptable for Mr. Volpe to be carrying on meetings with representatives of UPMC without informing Swift Kennedy of the personnel with whom he is meeting and the purpose of the meeting. Providing this information to Swift Kennedy is necessary in order for Swift Kennedy to properly coordinate the activities of its representatives. Mr. Volpe's failure to inform Swift Kennedy (through Mr. Calistri) of these types of activities will result in termination of his employment for cause.

In regard to the computer training, as you suggested at our prior meetings, it may be more productive for others within Swift Kennedy to perform data entry on the computer system rather than Mr. Volpe. Swift Kennedy previously notified Mr. Volpe of mandatory computer training sessions for employees, and Mr. Volpe failed to attend or otherwise respond to the notices. As an accommodation to Mr. Volpe, Swift Kennedy will prepare a paper form that he will fill-out and provide to office staff for input of the necessary data into the computer system. Refusal by Mr. Volpe to fill-out the form for each customer/prospect and turn the forms in to Tammy Jewel on a weekly basis will result in termination of his employment for cause.

In regard to attendance at vendor meetings, the decision as to who will attend such meetings on behalf of Swift Kennedy rests with Swift Kennedy, not Mr. Volpe. Swift Kennedy coordinates certain representatives to attend these meetings on behalf of Swift Kennedy as deemed appropriate by Swift Kennedy. In the event Mr. Volpe receives an invitation to attend any such meeting, he will be expected to discuss the matter with Mr. Calistri. Should Mr. Volpe elect not to discuss with Mr. Calistri his attendance at any vendor meeting(s) to which Mr. Volpe receives an invitation, such action by Mr. Volpe will result in termination of his employment for cause.

David J. Hopkins, Esquire

Page 3

April 30, 2003

Please have Mr. Volpe plan to meet with Mr. Calistri in the State College office on Friday, May 2, at 2:00 p.m., rather than Thursday, May 1. Mr. Volpe is not to be in the DuBois office other than during regular office hours (8:30 am to 5:00 pm, Monday through Friday). It is unacceptable for an employee who is suing the company to have unsupervised access to business property. Given that Mr. Volpe is only working five (5) hours per week, he should not need after hours access to the business property. If this is incorrect, please let me know.

Additional information for next week's schedule will be forthcoming soon.

Please feel free to contact me with any questions. Thank you.

Very truly yours,



Rodney A. Beard

RAB/hrr

c: Rodney Moline (via facsimile)

Jerry Calistri (via facsimile)

N:\Clients\Swift, Kennedy & Associates, Inc\S. Volpe\Hopkins.4-30-03.doc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendants' Requests for Admissions and
Accompanying Interrogatory to Plaintiff was served by U.S. First Class Mail, postage prepaid in
Bellefonte, Pennsylvania, on the 10th day of March, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

3-10-06
Date


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

vs.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendant

No. 03-1867-CD

PLAINTIFF'S ANSWERS TO REQUESTS FOR
ADMISSIONS AND ACCOMPANYING INTERROGATORY

NOW COMES the Plaintiff, STEPHEN R. VOLPE, by and through his attorney, Carl A. Belin, Jr., and sets forth the following Answers to Requests for Admissions and Accompanying Interrogatory:

1. Request No. 1 is denied; I worked forty (40) hour weeks after receiving notice of Judge Reilly's decision until I was suspended with pay on August 17, 2003. I also offered to continue working a forty (40) hour week at a meeting with SKA and HI on September 8, 2003 which was rejected by SKA and HI.

2. Request No. 2 is denied; I advised SKA of my work activities after July 15, 2003 and advised SKA of my contacts with prospective clients as all existing clients had been removed from my responsibilities by prior directives.

3. Request No. 3 is denied; I incorporate my answers to requests for admissions one (1) and two (2) hereto as further answer to Request No. 3.

4. Request No. 4 is admitted; but the contents of the letter are incorrect. The second paragraph refers to a meeting with Mr. Calistri in State College when he was on work release under a criminal judgment. I was advised that I would not be paid for my travel

from DuBois to State College and the return thereof to meet with Mr. Calistri and that was the source of my aggravation. I did not refuse to meet with Mr. Calistri and, in fact, met with him at SKA's request in State College.

The meeting with A.B. Hallstrom was a social affair involving skeet shooting. This was a regular event in which I was promoting SKA to Mr. Hallstrom and other people present at the affairs.

The Catholic Social Services item was incorrect as they were not a client of SKA and I had heard they were unhappy with their present insurance due to a premium hike. I was attempting to see if SKA could take advantage of their displeasure to recruit a new client.

I did keep Mr. Calistri advised of my invitations to meetings with vendors in 2003 and, in fact, was told by Mr. Calistri that I was not to attend training sessions with UPMC and Blue Cross at that time. As a result, I did not attend those meetings.

I had not entered the office when this letter was written as the locks had been changed and I had no key to enter the office except when others were present.

5. Request No. 5 is objected to; this request is objected to as a violative of Pa. R.C.P. No. 4003.1 in that it seeks an admission which would be inadmissible at trial and is not reasonably calculated to lead to the discovery of admissible evidence.

6. Request No. 6 is denied; the Order of Judge Reilly was appealed to the Superior Court. Its Order affirming Judge Reilly at No. 423 WDA 2004 is the final, unappealable Order.

7. Request No. 7 is admitted; it is further averred the Superior Court affirmed Judge Reilly as follows:

"In this case, the language of the contract is not ambiguous and provides that Appellant work a minimum of five hours a week; the agreement is silent as to

the maximum number of hours Appellant is required to work. In light of this fact, Appellant's attempt to have us substitute "at most" for "at least" based on the facts and circumstances surrounding the contract's formation fails. The fact that the language in the prior draft setting average hours was omitted from the final draft in favor of the present version, which actually supports the argument that there was to be no maximum hour requirement, is of no moment if the contract terms are not ambiguous.

As we conclude that the trial court correctly determined that the contract language does not set forth a maximum work week, we affirm."

8. Request No. 8 is denied; the contract language does not set forth a maximum work week. It is further averred that no agreement was ever reached as to the maximum hours to be worked, although, I did work forty (40) hours per week from the time I received notice of Judge Reilly's decision until I was suspended with pay on August 17, 2003 and I offered to work forty (40) hours a week on September 8, 2003 which was rejected by SKA.

9. Request No. 9 is admitted that Schedule "A" was attached to the employment agreement but it is averred that Schedule "A" was a separate contract and was a related contract to the employment agreement.

10. Request No. 10 is admitted; but it is averred that it was contemplated by the parties that the health insurance benefits would be provided by SKA until I reached "medicare eligibility" age, consequently I would not be paid for this benefit while SKA was providing it to me.

11. Request No. 11 is objected to; this request is objected to as a violative of Pa. R.C.P. No. 4003.1 in that it seeks an admission which would be inadmissible at trial and is not reasonably calculated to lead to the discovery of admissible evidence.

12. Request No. 12 is denied; it is averred I received \$35,000.00 per year under the contract. The weekly wage would have been \$673.08 ($\$35,000.00 \div 52$) and the

period involved is twelve (12) weeks - $\$673.08 \times 12 = \$8,076.92$. I admit I received \$8,076.92 during this period. It is further averred that this is the same amount set forth in SKA and HI's petition to recover compensation in the declaratory judgment action CA 03-225-CD.

ANSWER TO INTERROGATORY

1a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

1b. None.

1c. See answer to 1a.

1d. See answer to 1a.

1e. See answer to 1a.

2a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

2b. None.

2c. See answer to 2a.

2d. See answer to 2a.

2e. See answer to 2a.

3a. See answers to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I) and deposition of Stephen R. Volpe.

3b. None.

3c. See answer to 3a.

3d. See answer to 3a.

3e. See answer to 3a.

6a. See record of appeal in the Superior Court to No. 423 WDA 2004.

6b. None.

6c. See answer to 6a.

6d. See answer to 6a.

6e. See answer to 6a.

8a. See exhibits to Complaint (attached to Defendant's Answer, New Matter and Counterclaim), deposition of Stephen R. Volpe and deposition of Scott Carlson. See also Answer to Defendant's Interrogatories to Plaintiff, Stephen R. Volpe, (Set I).

8b. None.

8c. See answer to 8a.

8d. See answer to 8a.

8e. See answer to 8a.

12a. See arithmetical computation in Request and Petition to Recover Compensation file at CA 03-225-CD.

12b. None.

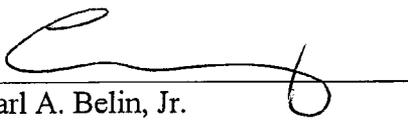
12c. See answer to 12a.

12d. See answer to 12a.

12e. See answer to 12a.

Respectfully submitted,

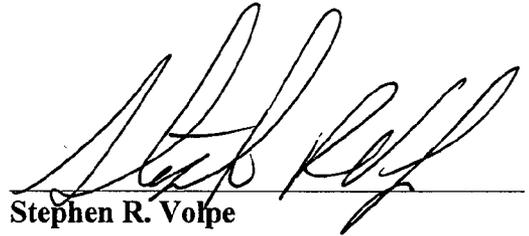
BELIN & KUBISTA



Carl A. Belin, Jr.
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF CLEARFIELD :

Before me, the undersigned, personally appeared STEPHEN R. VOLPE, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Answers to Requests for Admissions and Interrogatory attached thereto are true and correct to the best of his knowledge, information and belief.


Stephen R. Volpe

SWORN and SUBSCRIBED before me this 7th day of April, 2006.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
LISA G. BLAKE, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD COUNTY
MY COMMISSION EXPIRES NOVEMBER 10, 2007



notary public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

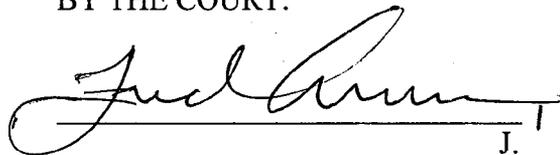
No. 03-1867-CD

ORDER

AND NOW, this 11 day of May, 2006, upon consideration of the Defendants' Motion to Compel Answers to Requests for Admissions, it is the ORDER of this Court as follows:

1. The Plaintiff shall file a written response to said Motion within thirty (30) days after service thereof;
2. Oral argument on the said Motion shall be heard by the Court on June 19, 2006, at 10:00 A.m., Courtroom #1, Clearfield County Courthouse.

BY THE COURT:


J.

FILED

9:30 am

MAY 12 2006

ACC Atty Beard



William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

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No. 03-1867-CD

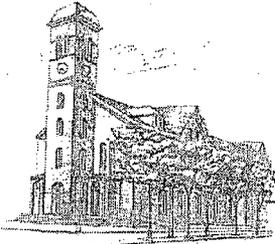
ORDER

AND NOW, this _____ day of _____, 2006, upon consideration of the Defendants' Motion to Compel Answers to Requests for Admissions, and following oral argument, it is the ORDER of this Court as follows:

Stephen R. Volpe shall provide Answers to the Requests for Admissions that were the subject of Defendants' Motion within fifteen (15) days of the date of this Order, and reimburse SKA and HI for reasonable attorney's fees incurred in presenting the Motion in the amount of \$_____.

BY THE COURT:

J.



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

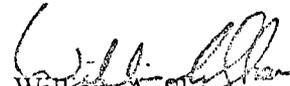
Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,


William A. Shaw
Prothonotary

DATE: 5-12-06

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

ORDER

1. AND NOW, this 19th day of May, 2006,
upon request of Attorney Beard to reschedule Oral Argument on Defendants' Motion to Compel
Answers to Request for Admissions in the above captioned matter which is scheduled for
June 19, 2006, at 10:00 a.m., in Courtroom No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania, it is the ORDER of the Court that argument is rescheduled for the 13th day of
July, 2006, at 3:00 P.m., Courtroom #1, Clearfield County Courthouse,
Clearfield, Pennsylvania.

2. It is the responsibility of Defendants' counsel to serve certified copies of
this Order on the Plaintiff.

BY THE COURT:

J.

FILED

02:44
MAY 23 2006 4cc

William A. Shaw
Prothonotary/Clerk of Courts

Atty Beard
(64)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff,

No. 03-1867-CD

v.

SWIFT KENNEDY & ASSOCIATES, INC.
And HELPMATES, INC.,
Defendants.

ORDER

NOW, this 23 day of May 2006, after consideration of the Defendants' Motion for Partial Summary Judgment filed March 9, 2006, the Court HEREBY FINDS AS FOLLOWS:

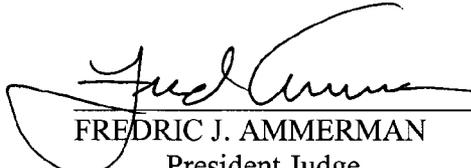
1. Defendants' request for Partial Summary Judgment relative termination of employment is hereby DENIED.
2. Defendants' request for Partial Summary Judgment claiming no liability on the part of Helpmates, Inc. for breach of contract relative Plaintiff's termination of employment is hereby DENIED.
3. Defendants' request for Partial Summary Judgment relative return of compensation paid to Plaintiff is hereby GRANTED in part. Plaintiff, in his Answer to Defendants' Motion for Partial Summary Judgment, alleges Defendants are owed \$7,068.60. Additional damages, if any, shall be determined at trial.
4. Defendants' Request for Partial Summary Judgment relative the claim on guaranty is hereby DENIED.

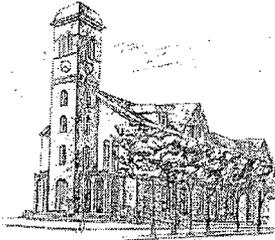
BY THE COURT:

FILED
0/2:35/BN
MAY 24 2006

William A. Shaw
Prothonotary/Clerk of Courts

1cc
Amys:
Belin
Beard
CR


FREDRIC J. AMMERMAN
President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/24/00

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff,

No. 03-1867-CD

v.

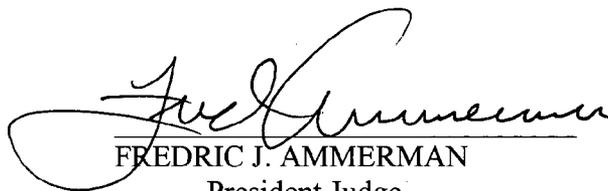
SWIFT KENNEDY & ASSOCIATES, INC.
And HELPMATES, INC.,
Defendants.

ORDER

NOW, this 23 day of May 2006, after consideration of the Plaintiff's Motion for Partial Summary Judgment filed February 9, 2006, the Court HEREBY FINDS AS FOLLOWS:

1. Plaintiff's request for Partial Summary Judgment relative the health insurance benefit is hereby DENIED.
2. Plaintiff's request for Partial Summary Judgment relative the stock/asset sale is hereby partially GRANTED as Defendants agree to liability. The Court hereby DEFERS ruling on the amount of damages pending trial.
3. Plaintiff's request for Partial Summary Judgment relative the undisclosed liabilities claim is hereby DENIED.
4. Plaintiff's request for Partial Summary Judgment relative the badmouthing and intentional interference claim is hereby DENIED.

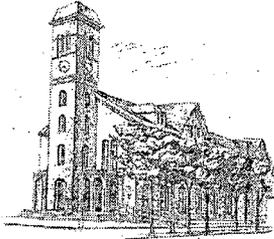
BY THE COURT:


 FREDRIC J. AMMERMAN
 President Judge

FILED
 012:28(SH)
 MAY 24 2006

William A. Shaw
 Prothonotary/Clerk of Courts ©

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 Alys:
 Belin
 Beard



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/24/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

No. 03-1867-CD

Type of Pleading: Certificate of Service

Filed on behalf of: Defendants

Counsel of Record for this party:
RODNEY A. BEARD, ESQUIRE
Attorney at Law
Supreme Court No. 49909

320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

(814) 548-0028

FILED

MAY 26 2006

M/10:40/10
William A. Shaw
Prothonotary/Clerk of Courts

1 CERT TO APPE

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT, KENNEDY & ASSOCIATES, INC., :
and HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that I have served the attached Order in the above captioned matter by
U.S. First Class Mail, postage prepaid in Bellefonte, Pennsylvania, on the 25th day of
May, 2006, to the following person:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Date

5/25/06


Rodney A. Beard, Esquire
Sup. Ct. I.D. No. 49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
(814) 548-0028 phone
(814) 548-0030 fax
rod@beardlawco.com

4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

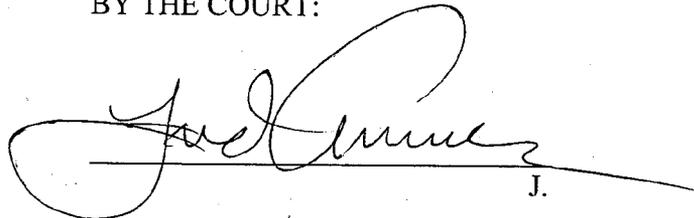
SWIFT, KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

ORDER

1. AND NOW, this 19th day of May, 2006,
upon request of Attorney Beard to reschedule Oral Argument on Defendants' Motion to Compel
Answers to Request for Admissions in the above captioned matter which is scheduled for
June 19, 2006, at 10:00 a.m., in Courtroom No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania, it is the ORDER of the Court that argument is rescheduled for the 13th day of
July, 2006, at 3:00 P.m., Courtroom #1, Clearfield County Courthouse,
Clearfield, Pennsylvania.

2. It is the responsibility of Defendants' counsel to serve certified copies of
this Order on the Plaintiff.

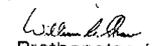
BY THE COURT:


J.

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAY 23 2006

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 :
vs. : No. 03 - 1867 - CD
 :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : PLAINTIFF'S ANSWER TO
 : DEFENDANTS' MOTION TO
 : COMPEL ANSWERS TO
 : REQUESTS FOR ADMISSIONS

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED
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MAY 30 2006
sec. A. Belin
UT

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

PLAINTIFF'S ANSWER TO DEFENDANTS'
MOTION TO COMPEL ANSWERS TO
REQUESTS FOR ADMISSIONS

AND NOW comes the Plaintiff, Stephen R. Volpe ("Volpe") and files the following answer to Defendants' Swift Kennedy & Associates, Inc. ("SKA") and Helpmates, Inc. ("HI") Motion to Compel Answers to Requests for Admissions and in support thereof avers as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted. The test for relevance is found in *Gregg v. Fisher*, 105 A.2d 105, 110 (Pa. 1954):

"The learned Court below well expressed the principle of law involved in a situation of this kind when it said:

'The law furnishes no test of relevancy, but tacitly refers it to **logic and general experience**. Evidence is admissible which tends to make the fact at issue more or less probable or intelligible or to show the origin and history of the transaction between the parties and explain its character.'" (emphasis added)

As stated in *Turney Media Fuel Inc. v. Toll Bros.*, 725 A.2d 836, 839 (Pa.Super. 1999):

"The question of whether evidence is relevant and, therefore, admissible, is a determination that rests within the sound discretion of the trial court and will not be reversed on appeal absent a showing that the court clearly abused its discretion. *Sprague*, 656 A.2d at 907. It is the court's function to exclude any evidence which would divert attention from the primary issues in the case, *Egelkamp v. Egelkamp*, 362 Pa.Super. 269, 524 A.2d 501, 504 (1987), thus the trial judge has broad discretion regarding the admissibility of potentially misleading or confusing evidence. *Sprague*, 656 A.2d at 909."

7. Paragraph 7 is denied. The action referred to as the malpractice action was commenced by Volpe by a praecipe against his attorney, David Hopkins, and no complaint has been filed setting forth the basis for the claim. See Docket entries marked Exhibit "A" and attached hereto. The only basis suggested by Volpe in his deposition as to that case involves

the language in the employment agreement relating to the hours he was required to work. See Volpe Deposition: Page 106 Line 16-20, and Page 103 Lines 16-22. This issue was resolved by the declaratory judgment action between SKA/Helpmates and Volpe has admitted he is bound by the ruling of the Superior Court, despite what he may have intended when the agreement was drafted: see Admission 7 in Volpe's answer to SKA/Helpmate's Requests. Whether or not he was satisfied with his attorney's drafting has no relevance in whether SKA/Helpmates terminated his contract in accordance with the provisions contained therein.

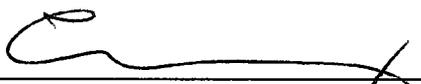
8. Paragraph 8 is denied. The medical benefits were being provided to Volpe on a monthly basis and SKA/Helpmates were paying the premiums to the insurance company; consequently he had no obligation to report the benefit on his tax return. See IRC § 106 and the letter of Walter Hopkins & Company LLP, attached hereto and marked Exhibit "B," and made a part hereof. In any event, the manner in which he treated his medical insurance on his tax return is not relevant as to whether the stock purchase agreement, the employment agreement, and the agreement referred to as Exhibit "A" regarding his medical benefit provided a vested "lifetime" benefit which could not be terminated unilaterally by SKA/Helpmates.

9. Paragraph 9 is admitted but these requests propounded in the motion to compel are irrelevant and Paragraphs 7 and 8 of this answer are hereby incorporated by reference and made a part hereof.

10. Paragraph 10 is denied and neither request is relevant to determine whether the agreements provided a lifetime benefit that had vested at the time the agreements were executed or whether SKA/Helpmates terminated Volpe in accordance with the contract.

WHEREFORE, Plaintiff requests that the Motion To Compel Answers To Requests For Admissions be dismissed.

BELIN & KUBISTA



Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

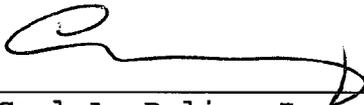
STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Plaintiff's Answer to Defendants' Motion To Compel Answers To Requests For Admissions in the above-captioned matter to the following party by postage prepaid United States first class mail on the 30th day of May, 2006:

Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

Date: 04/18/2006

Clearfield County Court of Common Pleas

User: GLKNISLEY

Time: 03:56 PM

ROA Report

Page 1 of 1

Case: 2005-00069-CD

Current Judge: No Judge

Stephen Volpe vs. David J. Hopkins, Hopkins Law Firm

Civil Other

Date		Judge
01/14/2005	New Case Filed. Filing: Writ of Summons Paid by: Scanlon & Sansone--Joel Sansone Receipt number: 1893862 Dated: 01/14/2005 Amount: \$85.00 (Check)	No Judge
02/11/2005	Sheriff Return, Papers served on Defendant(s) on Jan.20, 2005. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge

Exhibit "A"

WALTER HOPKINS & COMPANY, L.L.P.

CERTIFIED PUBLIC ACCOUNTANTS

walterhopkinsco.com

1107 Linden Street • P.O. Box 910-A • Clearfield, PA 16830
(814) 765-7876 • Fax (814) 768-9426

Route 322 West • P.O. Box 684 • Philipsburg, PA 16866
(814) 342-2155 • Fax (814) 342-4014



RECEIVED

MAY 22 2006

Walter Hopkins 1927 - 1981
Frank W. Fulton, CPA 1947 - 1978
Robert L. Mitchell, CPA 1951 - 1993
Samuel P. Bachelier 1957 - 1995

Francis H. Elensky, CPA
Fred C. Lucas, Jr., CPA
John H. Musser, CPA
Charles T. Adamson, CPA
Samuel J. Maney, CPA

Danette M. Brown, CPA
Katherine B. Eckley, CPA
Erik J. Elensky, CPA

Clearfield, Pennsylvania
May 18, 2006

Belin and Kubista
Attn: Mr. Carl A. Belin, Jr.
PO Box 1
Clearfield, PA 16830

Re: Health insurance

Dear Mr. Belin:

Per your request, I have researched your question concerning the taxability of health insurance premiums paid for a former employee by the employer.

The facts we discussed concerned an employment contract that the employee had with his employer. The contract stated that the employee would be covered by the employer's health insurance policy until age 65 when he would be eligible for Medicare benefits.

However, the employee was terminated from his job before retirement and age 65. The employment contract is still a valid contract and the health insurance premiums are being made directly to the insurance company on the employee's behalf. The dispute arises over whether these payments for health insurance coverage are taxable compensation to the former employee.

According to my research, payments for health insurance (which fall under the accident and health benefits category) are excluded from income under Code Section 106. Payments for health insurance are one of the categories under the "fringe benefit exclusion rules".

For purposes of Section 106, an employee is defined in Code Section 105 as including a "former employee that you maintain coverage for based on the employment relationship."

Based on the above information, I believe that the insurance premiums would not be taxable compensation to the employee because the criteria for exclusion under Code Section 106 have been met.

Exhibit "B"

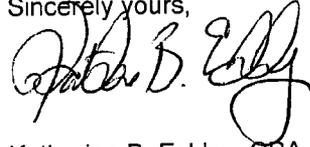


Member

Division for CPA Firms AICPA

If you have any questions, or need additional information, please contact our office. I have also included some information for your review concerning Code Section 106.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Katherine B. Eckley". The signature is fluid and cursive, with the first name being the most prominent.

Katherine B. Eckley, CPA
Staff Accountant

See Table 2-1 for an overview of the employment tax treatment of these benefits.

Table 2-1. Special Rules for Various Types of Fringe Benefits
(For more information, see the full discussion in this section.)

Type of Fringe Benefit	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment (FUTA)
Accident and health benefits	Exempt ^{1,2} , except for certain long-term care benefits	Exempt, except for certain payments to S corporation employees who are 2% shareholders.	Exempt
Achievement awards	Exempt ¹ up to \$1,600 (\$400 for nonqualified awards).		
Adoption assistance	Exempt ¹	Taxable	Taxable
Athletic facilities	Exempt if substantially all use during the calendar year is by employees, their spouses, and their dependent children.		
De minimis (minimal) benefits	Exempt	Exempt	Exempt
Dependent care assistance	Exempt ³ up to certain limits, \$5,000 (\$2,500 for married employee filing separate return).		
Educational assistance	Exempt up to \$5,250 of benefits each year. (See <i>Educational Assistance</i> on page 7.)		
Employee discounts	Exempt ⁴ up to certain limits. (See <i>Employee Discounts</i> on page 8.)		
Employee stock options	See <i>Employee Stock Options</i> on page 8.		
Group-term life insurance coverage	Exempt	Exempt ^{1,5} up to cost of \$50,000 of coverage. (Special rules apply to former employees.)	Exempt
Lodging on your business premises	Exempt ¹ if furnished for your convenience as a condition of employment.		
Meals	Exempt if furnished on your business premises for your convenience. Exempt if de minimis.		
Moving expense reimbursements	Exempt ¹ if expenses would be deductible if the employee had paid them.		
No-additional cost services	Exempt ⁴	Exempt ⁴	Exempt ⁴
Retirement planning services	Exempt ⁶	Exempt ⁶	Exempt ⁵
Transportation (commuting) benefits	Exempt ¹ up to certain limits if for rides in a commuter highway vehicle and/or transit passes (\$105), or qualified parking (\$205). (See <i>Transportation (Commuting Benefits)</i> on page 14.) Exempt if de minimis.		
Tuition reduction	Exempt ⁴ if for undergraduate education (or graduate education if the employee performs teaching or research activities).		
Working condition benefits	Exempt	Exempt	Exempt

¹ Exemption does not apply to S corporation employees who are 2% shareholders. See page 3.
² Exemption does not apply to certain highly compensated employees under a self-insured plan that favors those employees.
³ Exemption does not apply to certain highly compensated employees under a program that favors those employees.
⁴ Exemption does not apply to certain highly compensated employees.
⁵ Exemption does not apply to certain key employees under a plan that favors those employees.
⁶ Exemption does not apply to services for tax preparation, accounting, legal, or brokerage services.

Accident and Health Benefits

This exclusion applies to contributions you make to an accident or health plan for an employee, including the following:

- Contributions to the cost of accident or health insurance.
- Contributions to a separate trust or fund that directly or through insurance provides accident or health benefits.

- Contributions to Archer MSAs or health savings accounts (discussed in Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans).

This exclusion also applies to payments you directly or indirectly make to an employee under an accident or health plan for employees that are either of the following.

- Payments or reimbursements of medical expenses.
- Payments for specific injuries or illnesses (such as the loss of the use of an arm or leg). The payments must be figured without regard to any period of absence from work.

Accident or health plan. This is an arrangement that provides benefits for your employees, their spouses, and their dependents in the event of personal injury or sickness. The plan may be insured or noninsured and does not need to be in writing.

Employee. For this exclusion, treat the following individuals as employees:

- A current common-law employee.
- A full-time life insurance agent who is a current statutory employee.
- A retired employee.
- A former employee you maintain coverage for based on the employment relationship.
- A widow or widower of an individual who died while an employee.
- A widow or widower of a retired employee.
- For the exclusion of contributions to an accident or health plan, a leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.

Exception for S corporation shareholders. Do not treat a 2% shareholder of an S corporation as an employee of the corporation for this purpose. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) more than 2% of the corporation's stock or stock with more than 2% of the voting power.

Exclusion from wages. You can generally exclude the value of accident or health benefits you provide to an employee from the employee's wages.

Exception for certain long-term care benefits. You cannot exclude contributions to the cost of long-term care insurance from an employee's wages subject to federal income tax withholding if the coverage is provided through a flexible spending or similar arrangement. This is a benefit program that reimburses specified expenses up to a maximum amount that is reasonably available to the employee and is less than five times the total cost of the insurance. However, you can exclude these contributions from the employee's wages subject to social security, Medicare, and federal unemployment (FUTA) taxes.

S corporation shareholders. Because you cannot treat a 2% shareholder of an S corporation as an employee

for this exclusion, you must include the value of accident or health benefits you provide to the employee in the employee's wages subject to federal income tax withholding. However, you can exclude the value of these benefits (other than payments for specific injuries or illnesses) from the employee's wages subject to social security, Medicare, and FUTA taxes.

Exception for highly compensated employees. If your plan is a self-insured medical reimbursement plan that favors highly compensated employees, you must include all or part of the amounts you pay to these employees in their wages subject to federal income tax withholding. However, you can exclude these amounts (other than payments for specific injuries or illnesses) from the employee's wages subject to social security, Medicare, and FUTA taxes.

A self-insured plan is a plan that reimburses your employees for medical expenses not covered by an accident or health insurance policy.

A highly compensated employee for this exception is any of the following individuals.

- One of the five highest paid officers.
- An employee who owns (directly or indirectly) more than 10% in value of the employer's stock.
- An employee who is among the highest paid 25% of all employees (other than those who can be excluded from the plan).

For more information on this exception, see section 105(h) of the Internal Revenue Code and its regulations.

COBRA premiums. The exclusion for accident and health benefits applies to amounts you pay to maintain medical coverage for a former employee under the Combined Omnibus Budget Reconciliation Act of 1986 (COBRA). The exclusion applies regardless of the length of employment, whether you directly pay the premiums or reimburse the former employee for premiums paid, and whether the employee's separation is permanent or temporary.

Achievement Awards

This exclusion applies to the value of any tangible personal property you give to an employee as an award for either length of service or safety achievement. The exclusion does not apply to awards of cash, cash equivalents, gift certificates, or other intangible property such as vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, and other securities. The award must meet the requirements for employee achievement awards discussed in chapter 2 of Publication 535, Business Expenses.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A former common-law employee you maintain coverage for in consideration of or based on an agreement relating to prior service as an employee.
- A leased employee who has provided services to you on a substantially full-time basis for at least a



Fringe Benefits - Manufacturing Tax Tips

A fringe benefit is a form of pay for the performance of services given by the provider of the benefit to the recipient of the benefit. For example, you provide an employee a fringe benefit when you allow the employee to use a business vehicle to commute to and from work.

Elements of a Fringe Benefit

- **Performance of services.** A person who performs services for you does not have to be your employee. A person may perform services for you as an independent contractor, partner, or director. Also, for fringe benefit purposes, treat a person who agrees not to perform services (such as under a covenant not to compete) as performing services
- **Provider of benefit.** You are the provider of a fringe benefit if it is provided for services performed for you. You may be the provider of the benefit even if it was provided by another person. For example, you are the provider of a fringe benefit your client or customer provides to your employee for services the employee performs for you
- **Recipient of benefit.** The person who performs services for you is the recipient of a fringe benefit provided for those services. That person may be the recipient even if the benefit is provided to someone who did not perform services for you. For example, your employee may be the recipient of a fringe benefit you provide to a member of the employee's family

Are Fringe Benefits Taxable?

Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it.

Including Taxable Benefits in Pay

You must include in a recipient's pay the amount by which the value of a fringe benefit is more than the sum of the following amounts:

- Any amount the law excludes from pay
- Any amount the recipient paid for the benefit

Fringe Benefits Valuation Rules

You must use the general valuation rule to determine the value of most fringe benefits. Under this rule, the value of a fringe benefit is its fair market value.

Fair Market Value

The fair market value of a fringe benefit is the amount an employee would have to pay a third party in an arm's-length transaction to buy or lease the benefit. Determine this amount on the basis of all the facts and circumstances. Neither the amount the employee considers to be the value of the fringe benefit nor the cost you incur to provide the benefit determines its fair market value.

Fringe Benefit Exclusion Rules

There are certain fringe benefits that are not subject to federal income tax withholding. Also in some cases they are not subject to social security, Medicare or federal unemployment tax

and are not reported on Form W-2. Exclusion Rules apply to the following fringe benefits:

- Accident and health benefits
- Achievement awards
- Adoption assistance
- Athletic facilities
- De minimis (minimal) benefits
- Dependent care assistance
- Educational assistance
- Employee discounts
- Employee stock options
- Group-term life insurance coverage
- Lodging on your business premises
- Meals
- Moving expense reimbursements
- No-additional-cost services
- Transportation (commuting) benefits
- Tuition reduction
- Working condition benefits

*Please refer to Fringe Benefit Exclusion Rules in [Publication 15-B](#) for further clarification.

Additional Resources

- [Publication 15](#), Circular E, Employer's Tax Guide
- [Publication 15-A](#), Employer's Supplemental Tax Guide
- [Publication 535](#), Business Expenses
- [Publication 15-B](#), Employer's Tax Guide to Fringe Benefits
- [W-2](#), Wage and Tax Statement (PDF)

Internal Revenue Service
Revenue Ruling

TaxLinks.com sm

Rev. Rul. 62-199

1962-2 C.B. 38

Sec. 106

Full Text

Rev. Rul. 62-199

The taxpayer is a retired employee of a company which maintains a health and accident plan to provide hospital, medical and surgical insurance coverage for its retired employees, as well as its active employees. Under the plan, the company pays two-thirds of the monthly premium costs of the coverage. The balance of the monthly premium costs are paid by the covered active and retired employees. The taxpayer continued coverage under the health and accident plan after retirement by authorizing the company retirement system to deduct his share of the insurance premium costs from his monthly retirement checks. The taxpayer does not own stock in the company.

Held , amounts paid by the company under the plan as its share of the cost of providing hospital, medical and surgical insurance coverage for the retired employee are excludable from his gross income for purposes of section 106 of the Internal Revenue Code of 1954.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
 :
 Plaintiff :
 :
 vs. : No. 03 - 1867 - CD
 :
 : JURY TRIAL DEMANDED
 SWIFT KENNEDY & ASSOCIATES, INC. :
 AND HELPMATES, INC., :
 Defendants : CERTIFICATE OF SERVICE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 3cc AKy Belin
9/3/04 um
MAY 30 2006 (um)

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
: JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of the attached Orders dated May 23, 2006, in the above-captioned matter to the following party by postage prepaid United States first class mail on the 26th day of May, 2006:

Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

Belin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

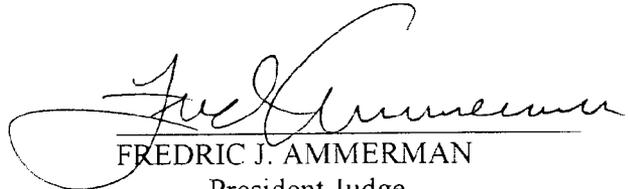
STEPHEN R. VOLPE, : No. 03-1867-CD
Plaintiff, :
 :
v. :
 :
SWIFT KENNEDY & ASSOCIATES, INC. :
And HELPMATES, INC., :
Defendants. :

ORDER

NOW, this 23 day of May 2006, after consideration of the Plaintiff's Motion for Partial Summary Judgment filed February 9, 2006, the Court HEREBY FINDS AS FOLLOWS:

1. Plaintiff's request for Partial Summary Judgment relative the health insurance benefit is hereby DENIED.
2. Plaintiff's request for Partial Summary Judgment relative the stock/asset sale is hereby partially GRANTED as Defendants agree to liability. The Court hereby DEFERS ruling on the amount of damages pending trial.
3. Plaintiff's request for Partial Summary Judgment relative the undisclosed liabilities claim is hereby DENIED.
4. Plaintiff's request for Partial Summary Judgment relative the badmouthing and intentional interference claim is hereby DENIED.

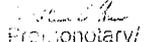
BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAY 23 2006

Attest


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff,

No. 03-1867-CD

v.

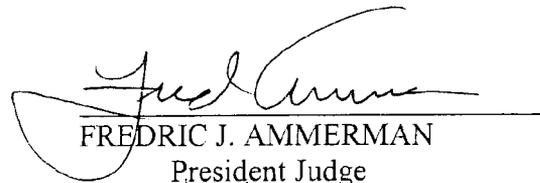
SWIFT KENNEDY & ASSOCIATES, INC. :
And HELPMATES, INC., :
Defendants. :

ORDER

NOW, this 23 day of May 2006, after consideration of the Defendants' Motion for Partial Summary Judgment filed March 9, 2006, the Court HEREBY FINDS AS FOLLOWS:

1. Defendants' request for Partial Summary Judgment relative termination of employment is hereby DENIED.
2. Defendants' request for Partial Summary Judgment claiming no liability on the part of Helpmates, Inc. for breach of contract relative Plaintiff's termination of employment is hereby DENIED.
3. Defendants' request for Partial Summary Judgment relative return of compensation paid to Plaintiff is hereby GRANTED in part. Plaintiff, in his Answer to Defendants' Motion for Partial Summary Judgment, alleges Defendants are owed \$7,068.60. Additional damages, if any, shall be determined at trial.
4. Defendants' Request for Partial Summary Judgment relative the claim on guaranty is hereby DENIED.

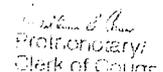
BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true
and attested copy of the original
submitted filed in this case

MAY 24 2006

Attest:


Prothonotary
Clerk of Court

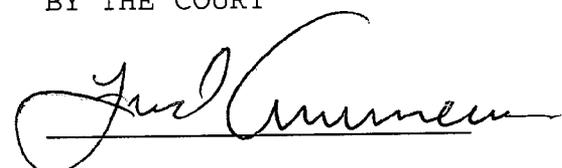
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE :
VS. : NO. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :

ORDER

AND NOW, this 13th day of July, 2006, following argument on the Defendant's Motion to Compel Answers to Request for Admissions filed on May 11, 2006, it is the ORDER of this Court that the said Motion to Compel be and is hereby denied.

BY THE COURT



President Judge

FILED
04:00 PM
JUL 17 2006
Becca
Beard
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	PRAECIPE FOR JURY TRIAL
Defendants	:	

FILED ON BEHALF OF:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED 3CC
010:34/ST Amy Belin
SEP 01 2006
CR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

PRAECIPE FOR JURY TRIAL

TO THE PROTHONOTARY:

Please place this case on the next jury trial list.
Estimated length of trial: 2 - 3 days.

BELIN & KUBISTA



Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

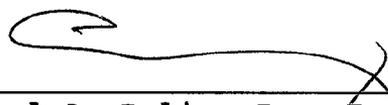
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF READINESS

Counsel hereby certifies:

1. That no motions are outstanding and that discovery has been completed and the case is ready for trial;
2. That the case is to be heard by a jury; and
3. That notice of the praecipe has been given to the attorney representing the other parties.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Praecipe for Jury Trial and Certificate of Readiness in the above-captioned matter to the following party by postage prepaid United States mail on September 1, 2006:

Rodney A. Beard, Esquire
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading:
PRAECIPE FOR WITHDRAWAL/
PRAECIPE FOR ENTRY OF
APPEARANCE

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
DEFENDANTS

Mark S. Weaver, Esquire
PA Supreme Court No. 63044
James M. Connelly, Esquire
PA Supreme Court No. 42272

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801
Telephone: (814) 237-6255

FILED ^{No}ce
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DEC 19 2006
copy to CIA
(S)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Please withdraw my appearance on behalf of the Defendants Swift Kennedy & Associates, Inc. and Helpmates, Inc.

Respectfully submitted,

12/13/06
Date


Rodney A. Beard
PA ID No.49909
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823
Telephone: (814) 548-0039
Facsimile: (814) 548-0030

PRAECIPE FOR ENTRY OF APPEARANCE

Please enter our appearance on behalf of the Defendants Swift Kennedy & Associates, Inc. and Helpmates, Inc. All papers may be served on the undersigned.

Respectfully submitted,

12-14-06
Date


Mark S. Weaver
PA ID No.: 63044
James M. Connelly
PA ID No.: 42272
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255

Facsimile: (814) 237-5752
E-mail: weaver@mazzalaw.com
connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the foregoing Praecipe for Withdrawal/Entry of Appearance was served on all parties of record in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

12-18-06

Date



Mark S. Weaver
PA ID No.: 63044
James M. Connelly
PA ID No.: 42272
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
E-mail: weaver@mazzalaw.com
connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

RULE TO SHOW CAUSE

AND NOW this _____ day of _____, 20_____,
a RULE is issued upon the Plaintiff to show cause why the relief requested in Defendant's Petition
for Continuance should not be granted.

This Rule is returnable for hearing the _____ day of _____,
20_____, at _____ o'clock _____m., in Courtroom No. _____ of the Clearfield
County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

PETITION FOR CONTINUANCE

Defendants Swift Kennedy & Associates, Inc. and Helpmates, Inc., by their undersigned counsel, respectfully request that this Court continue the above-captioned case from the Winter Civil Trial List pursuant to Pa. R.C.P. 216 and in support represents as follows:

1. Plaintiff commenced this action on December 19, 2003 seeking to recovery damages for an alleged breach of an employment contract resulting from the termination of Plaintiff's employment with Defendants.
2. Defendants filed Counterclaims against Plaintiff seeking damages for Plaintiff's alleged breach of the Employment Agreement.
3. This case first appeared on a trial list on September 1, 2006.
4. It is believed that this case has been continued once in the past.
5. Defendants request that this action be continued from the Winter Civil Trial List until the next Trial List in Spring 2007.
6. The reasons for this request for continuance are as follows:
 - a. Defendants recently replaced counsel in this matter and sufficient time is needed for your undersigned to become familiar with the significant material involved in this matter and to prepare for trial;
 - b. Defendants are in the process of developing expert opinions regarding

damages claimed by Plaintiff and by Defendants; and

c. Upon discussion with counsel for Plaintiff, it is believed that Plaintiff concurs with this request for continuance.

7. All parties or their counsel were notified of this Petition by mail or by telephone conversation on December 19, 2006.

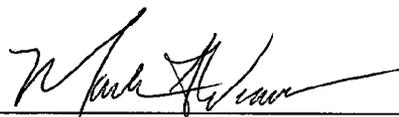
8. It is believed and, therefore, averred that Plaintiff does not object to this Petition.

WHEREFORE, Defendants respectfully request this Honorable Court to continue trial in the above matter from the Winter term to the Spring term of court.

Respectfully submitted,

12-20-06

Date



Mark S. Weaver
Attorney for Defendants
PA ID No.: 63044
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
E-mail: weaver@mazzalaw.com

JA

BELIN, KUBISTA & RYAN
ATTORNEYS AT LAW
15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PENNSYLVANIA 16830

CARL A. BELIN, JR.
KIMBERLY M. KUBISTA
JOHN R. RYAN

CARL A. BELIN
1901-1997
AREA CODE 814
TELEPHONE 765-8972
FAX (814) 765-9893

December 21, 2006

VIA FACSIMILE ONLY 765-7649

Honorable Fredric J. Ammerman
President Judge
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

In re: Stephen R. Volpe v. Swift Kennedy &
Associates, Inc. And Helpmates, Inc.
No. 03-1867-CD

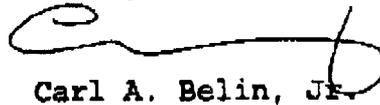
Dear Judge Ammerman:

I have reviewed the petition for continuance in the above-captioned case. We have no objection to the Court continuing this trial from the Winter Term to the Spring Term of Court on the following conditions:

1. that a status conference be scheduled in January to review the status of this case; and
2. that no further continuances be granted to the Defendants in the matter.

Very truly yours,

BELIN, KUBISTA & RYAN



Carl A. Belin, Jr.

cc: Mark S. Weaver, Esquire

Please docket as a Conditional Consent to Defendants' Petition for Continuance. Thanks

FILED Filed per
03/12/04 FJA
DEC 29 2006

William A. Shaw No CC
Prothonotary/Clerk of Courts (CK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,	*	
Plaintiff	*	
vs.	*	NO. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES,	*	
INC. and HEPLMATES, INC.,	*	
Defendants	*	

ORDER

NOW, this 22nd day of December, 2006, the Court having reviewed the Petition for Continuance filed by the Defendants and noting that the Plaintiff has no objection to the request for continuance; it is the ORDER of this Court that the trial in the above-captioned case be and is hereby continued from the Winter Term to the Spring Term of Court.

In addition, a status conference has been scheduled for the 17th day of January, 2007 at 9:00 A.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

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013:19:301
 DEC 29 2006
 ICC Atty's:
Belin
Weaver
 William A. Shaw
 Prothonotary/Clerk of Courts
(60)

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.,
and HELPMATES, INC.,
Defendants

*
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*
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*

NO. 03-1867-CD

ORDER

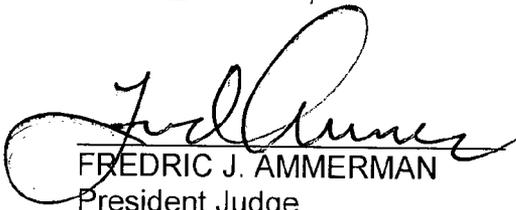
NOW, this 17th day of January, 2007, following status conference among counsel and the Court, upon the agreement of counsel it is the ORDER of this Court as follows:

1. Defendant shall provide Plaintiff with a complete list of witnesses which will or may be called at time of jury trial as well as any expert report(s) along with curriculum vitae of the expert who has authored the report by no later than March 8, 2007;
2. Plaintiff shall provide its' complete witness list and any expert reports along with curriculum vitae to Defense by no later than April 15, 2007;
3. Except upon leave of Court, neither party shall be permitted to call as a witness at time of trial any individual not appropriately identified and set forth within the witness lists as described above. The same prohibition shall apply to any expert whose report has not been received under the time constraints as set forth above.

FILED ICCA Mys:
013:40 Belin
JAN 18 2007 Weaver
(60)

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
AND HELPMATES, INC.,
Defendants

:
:
: No. 03 - 1867 - CD
:
: JURY TRIAL DEMANDED
:
: CERTIFICATE OF SERVICE
: PLAINTIFF'S SECOND SET
: OF INTERROGATORIES
: AND SECOND REQUEST
: FOR PRODUCTION

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED ^{no cc}
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LST

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent an of Plaintiff's Second Set of Interrogatories and Second Request for Production in the above-captioned matter to the following party by facsimile and postage prepaid United States first class mail on the 13th day of March, 2007:

237-5752
Mark S. Weaver, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
	:	
SWIFT KENNEDY & ASSOCIATES, INC.	:	PLAINTIFF'S MOTION
AND HELPMATES, INC.,	:	IN LIMINE RE:
Defendants	:	EDWIN ROSENTHOL

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED *ACC Atty Belin*

9/3: awm
APR 02 2007

(initials)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

ORDER

AND NOW this _____ day of _____, 2007, upon considering Plaintiff's Motion in Limine in re: Edwin Rosenthol, it is the ORDER of the Court that said motion is hereby (granted) (denied) as to Report I, and (granted) (denied) as to Report II.

If granted, Edwin Rosenthol is hereby precluded from testifying in this case as to his Report I and II dated March 7, 2007.

BY THE COURT,

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

PLAINTIFF'S MOTION IN LIMINE
EDWIN ROSENTHOL

AND NOW comes the Plaintiff, Stephen R. Volpe ("**Volpe**") by his counsel, Carl A. Belin, Jr., of Belin, Kubista & Ryan, and files the following motion in limine to preclude the testimony of Edwin Rosenthol ("**Rosenthol**") at trial, and in support thereof avers as follows:

1. Volpe has sued Swift Kennedy & Associates, Inc. and Helpmates, Inc. (both "**SKA**") for the breach of several of the contracts which are interrelated and which together constitute the sale of an insurance business known as SKA to Helpmates.

2. The contracts include a stock sale agreement, an employment contract, a separate contract as to certain benefits to be provided Volpe, an oral agreement between the parties as to the change of the transaction from a "stock sale" to an

"asset sale," and a claim for casualty referral commissions paid over to SKA and not paid to Volpe.

3. The written contracts have been admitted by Helpmate, a summary judgment has been entered as to the oral contract so that the only issues remaining are the construction of the contracts by Your Honorable Court and the facts and circumstances supporting each parties' position as to the breach of contracts that occurred.

4. That SKA has submitted two (2) reports of Rosenthol which are identified as Report #1 and Report #2 which are attached hereto as Exhibits "1" and "2."

REPORT I

5. SKA has submitted the opinion of Rosenthol as a witness in this case to present an analysis as to the valuation of SKA "at March 2002 was not in excess of ... \$1,300,000.00."

6. That the parties negotiated a sale of SKA, concluded the sale by the interrelated contracts, and SKA has paid Volpe the amounts called for in the stock sales agreement. The only issues remaining are the construction of certain of the contracts and a claim for unpaid salary, health benefits, insurance referrals, and amounts due for the change of the sale from a stock sale to an asset sale, none of which involves a valuation issue as to SKA.

7. That as a result, the valuation of SKA is irrelevant to the issues in this case and its admission would lead to confusion of the jury as to the pertinent relevant issues.

8. As stated in *Shuey v. Rump*, 421 A.2d 324, 325 (Pa.Super 1980) in an analogous situation:

"The only question . . . for the jury was this: Which of the parties had correctly stated the terms of their agreement? But [the owners] offered the testimony of two builders, alleged experts, who were asked the highly ambiguous question: 'What in your opinion would be the cost of that work to the owner?' This presumably was intended to elicit from them an estimate as to what they themselves would have charged for the work, or what they thought other contractors might have charged The admission of this testimony over [the builder's] objection was clearly erroneous: *Siebert v. Householder*, 8 Sadler 576 [10 A. 784]; *Blank v. Shoemaker*, 65 Pa.Super. 255; *United Embroidery Co., Inc. v. Gorin*, 97 Pa.Super. 598. It raised an issued that was not in the case. [The builder] was not suing on a quantum meruit but on an express contract.

. . . .

In *Snyder* the owner attempted to show that the builder's claim was higher than the usual local cost for such construction. Here the builder sought to show his claim was lower. We believe this testimony is equally irrelevant."

REPORT II

9. That Rosenthol has also submitted a separate report that concludes:

- "1. Gross revenue grew at a much smaller rate in the initial years after Mr. Volpe decreased his involvement with Swift Kennedy.
2. Fiscal years 2004 and 2005 produced EBITDA percentages that were at least ten points less than the old company average."

10. That the issue before the Court as to SKA involves the reason for the separation of Volpe from SKA: whether it was a justified firing or whether the termination was pretextual because SKA did not want to be burdened with Volpe's employment contract.

11. That in either event, SKA through its actions, has separated Volpe from the company and has elected to terminate him thereby rendering the impact of his separation on SKA thereafter irrelevant to the issues in this case.

12. That Volpe was discharged on October 2, 2003, and Rosenthol's Report II relates to fiscal years 2004 and 2005, which would be even more irrelevant to the present actions.

13. That the intervening actions of Helpmates in operating SKA was its election and as a result was the direct

cause of the ensuing profitability of SKA which superseded the effect of Volpe's separation.

14. That, in any event, a review of Rosenthol's Report II indicates that the conclusion of the report is couched in the following language:

"Based upon my review of the financial information provided to me and the information provided by management I am able to make the following general statements:

1. Gross revenue grew at a much smaller rate in the initial years after Mr. Vole decreased his involvement with Swift Kennedy.

2. Fiscal years 2004 and 2005 produced EBITDA percentages that were at least ten points less than the old company average." (emphasis added)

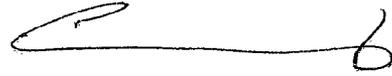
15. That these are but mere observations and do not constitute opinions as to valuation, which would be irrelevant in any event, and their admission will lead to confusion of the jury as to any of the pertinent issues in this case.

16. As this is a contract action, only the contractual terms are relevant, not expert testimony as to collateral issues: see *Shuey, supra*.

WHEREFORE, Volpe requests Your Honorable Court to enter an order precluding Rosenthol from testifying in this case as to Reports I and II.

And he will ever pray.

BELIN, KUBISTA & RYAN

A handwritten signature in black ink, appearing to read 'Carl A. Belin, Jr.', written over a horizontal line.

Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

March 7, 2007

Mark S. Weaver, Esq.
The Mazza Law Group, P.C.
Suite 302
1315 South Allen Street
State College, PA 16801

Re: Volpe v. Swift Kennedy

Dear Mr. Weaver:

Pursuant to my engagement, I have reviewed the terms of the Purchase Agreement between Swift Kennedy & Associates ("SKA") and Stephen Volpe and Helpmates, Inc. ("the Buyer") dated March 26, 2002. As a result of my analysis of the fundamentals of the deal and comparable transactions that occurred in the marketplace before and after this transaction, I have concluded that the Buyer appears to have overpaid in its acquisition of SKA. Further, based upon my review of the limited information available to me at this time, and after employing the following methodologies I believe that the Buyer should not have paid more than \$1.3 million in order to acquire SKA.

Background

Under the terms of the initial agreement, the Buyer was to have purchased 100% of the issued and outstanding stock of SKA for a total consideration of \$1.68 million which included a payment of \$100,000 to Mr. Volpe in exchange for a non-compete agreement for five years following the closing date of the transaction. This stock purchase was subsequently changed to an asset purchase for the same terms. Based upon the financial information filed in SKA's 2001 1120S, the transaction represented multiples of 2.0x Sales and 8.5x Earnings Before Interest, Taxes, Depreciation, and Amortization ("EBITDA").

Comparable Transaction Analysis

In order to evaluate the reasonableness of the acquisition consideration, I analyzed data related to 60 transactions of firms in the insurance industry that occurred between 1996 and 2006. I concluded that two of the transactions could be considered comparable to the SKA acquisition, in terms of the nature of operations, the size of the business and the timing of the deals.

<u>Transaction Date</u>	<u>Principal Business</u>	<u>Purchase Price</u>	<u>Revenue</u>	<u>EBITDA</u>	<u>MV/Sales</u>	<u>MV/EBITDA</u>
5/28/2003	Insurance Brokerage Firm	\$1,238,419 *	\$1,220,837	NA	1.01	
3/31/2003	Insurance Agency	\$1,171,000 **	\$760,000	\$356,992 ***	1.54	3.28

*Assumes seller received additional \$335k conditioned upon achieving profitability targets

**Excludes Financing

***Prior to Owner's Compensation of \$300k.

In my experience, I have found that the Market Value/Sales ratio ("MV/Sales") tends to be the most informative method for comparing deals, since it minimizes the impact of differing accounting treatments across companies. Additionally, often companies are considered purchase targets when the acquirer believes that current management's operational inefficiencies have artificially depressed profitability. As such, the acquirer may be willing to pay for the income potential that they feel the current revenue can generate.

That being said, a target company viewed as having demonstrated sustainable profitability will probably command a premium. In the case of the above deals, it would appear that buyers in the second transaction were willing to pay a premium for the profitable sales of the target company, as evidenced by the acquisition price of 1.54x sales. Including the compensation that was being paid to the owner, this company was generating pretax cash operating income, or EBITDA, of \$356,992. This represents a 47% EBITDA margin, meaning that sales were generating close to 50 cents on the dollar in EBITDA. Performing a similar calculation and excluding \$114,000 of owner's compensation for SKA yields a normalized EBITDA of \$211,108, or a 37.5% EBITDA margin. Therefore, the most that I would have expected the Buyer to pay to acquire SKA is \$1.28 million, or 1.54x sales. I have seen nothing in the financial results of SKA to support a claim that economics of this business merited a premium valuation.

Income Approach

Also, I valued SKA utilizing an income approach, employing the Gordon Growth model to determine the value of SKA based upon a reasonable expectation of SKA's potential future income stream. The Gordon Growth Model is based on an assumption that the current cash flow stream will grow evenly in perpetuity. In order to determine what the value of the cash flow stream is today, the model discounts the cash flows utilizing a rate that is equal to the firm's cost of capital. Expectations of uncertainty or volatility in earnings are addressed with a higher discount rate, or risk premium, which will reduce the amount the investor should be willing to pay for the future earnings today.

While SKA experienced robust revenue growth of over 20% in 2000, growth slowed considerably in 2001. Assuming that SKA could maintain industry average growth of 2.5% going forward and applying a build-up method to arrive at a discount rate of 21.5%, I have concluded that SKA's future income stream was worth \$651,321, which translates into .78x 2001 sales or 3.3x 2001 EBITDA of \$197,108 (after allowing for \$114,000 of owner's compensation as a valid expense).

2001 Income	\$185,254.00
Taxes (@35%)	\$64,838.90
Estimated Net Income	<u>\$120,415.10</u>
Long-term Growth Rate	2.5%
<u>Discount Rate</u>	
Expected Return on U.S. Treasuries	5.8%
Equity Risk Premium	7.4%
Micro-Cap Premium	3.3%
Company-Specific Premium	5.0%
Discount Rate	<u>21.5%</u>
PV of Expected Future Income	<u>\$651,321</u>

Mark S. Weaver, Esq.
Re: Volpe v. Swift Kennedy
Sale Value
March 7, 2007
Page 3

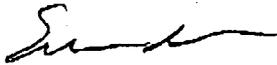
Since my assumptions yielded a valuation less than half of the acquisition price, I attempted to ascertain what assumptions the Buyers would have needed in order to justify the purchase under an income approach. I was unable to do so with any reasonable set of assumptions.

Public Market Valuations

Finally, I looked to public market valuations for companies operating in the insurance brokerage industry. While public market valuations are not ideal proxies for the value of small, privately held business, they provide yet another data point for comparison and help shed light on the value being attached to similar assets. According to Hoover's, an online database of company information, the median Price/Sales ratio for companies operating in the industry is 1.51x, far less than the 2.0x sales paid by Helpmates, Inc..

Based upon the above information and analysis it is my considered professional opinion therefore, that the fair market value of Swift Kennedy at March 2002 was not in excess of One Million Three Hundred Thousand dollars (\$1,300,000).

Sincerely,



Edwin Rosenthal

Edwin Rosenthal
 Certified Public Accountant
 Accredited in Business Valuation

30 S. 17th Street^h Philadelphia, PA 19103-4196
 Telephone 215-979-1634 * Fax 215-979-1626
 E-mail Dwintax@AOL.com

March 7, 2007

Mark Weaver, Esq.
 The Mazza Law Group, P.C
 Suite 302
 1315 South Allen Street
 State College, PA 16801

Re: Volpe v. Swift Kennedy

Dear Mr. Weaver:

Based upon our conversation I have prepared some analysis of the Swift Kennedy financial information. Because all of the debt and goodwill associated with the purchase was put on the Swift Kennedy books I have increased income by removing interest, depreciation and amortization in an attempt to have some comparability with the pre-acquisition financial data. I have also adjusted for the management fees received in 2003 and paid in fiscal year 2004. The result is a normalized cash flow or EBITDA.

The results are shown in this table:

	Calendar Year				Fiscal Years Ended June 30,			
	1999	2000	2001	2002	2003	2004	2005	2006
Gross revenue	643,053	779,430	830,191	836,174	936,733	962,368	920,086	1,003,629
Annual revenue growth		21.2%	6.5%	0.7%		2.7%	4.4%	9.1%
Net Income per tax return	107,525	211,977	185,254	17,877	92,897	(215,760)	(62,007)	25,709
Add back:								
Management fee					(115,000)	129,486		
Interest expense	5,385	4,898	4,102	79,374	94,541	97,812	82,367	76,288
Depreciation	5,000	2,950	1,775	0	11,131	13,743	15,860	11,409
Amortization	5,977	5,977	5,977	17,863	107,178	107,178	107,178	107,178
EBITDA	123,887	225,802	197,108	115,114	190,747	132,459	143,398	220,584
EBITDA / Revenue	19.3%	29.0%	23.7%	13.8%	20.4%	13.8%	15.6%	22.0%

The following facts should be noted in reviewing these numbers:

- In 1999 Mr. Volpe took a salary of \$160,000 while in 2000 and 2001 he only took a salary of \$114,000. This causes the 1999 income to be less than that of 2000 and 2001. Adjusting 1999 for the \$114,000 salary produces an EBITDA percent of 26.4%.
- Swift Kennedy (new) incurred the following legal fees which were considerably greater than the pre-acquisition expenses:
 - 2003 - \$37,802

- B. 2004 - \$51,154
- C. 2005 - \$29,251
- D. 2006 - \$51,806

3. Rents decreased by approximately 50%, starting in fiscal 2004.
4. There are other expenses which increased from that incurred by "old", but they were probably just in the normal course of business, such as computer expenses, insurance, telephone and office and postage.
5. In fiscal 2003 Helpmates paid Swift Kennedy a management fee of \$115,000, while in fiscal 2004 Helpmates was paid a management fee of \$129,486. I have removed both of these from my calculation.
6. The calendar year 2002 numbers were compiled from the final old Swift Kennedy tax return for the period January 1, to April 30, 2002, the new Swift Kennedy tax return for the two months ended June 30, 2002 and an internally prepared Profit and Loss report for the six months ended December 31, 2002.
7. The schedule shows that for the year of sale, 2002, including the initial period of new Swift Kennedy, financial results were poor. It would appear that there was no effort put into new sales generation as the increase was only \$7,186 or less than 1% growth. Commission expense, which on average is 25% of revenue, was 74.2% of revenue for the two months ended June 30, 2002.
8. No revenue growth was calculated for the fiscal year ended June 30, 2003 as it includes the six-month period ended December 31, 2002 used above and would have used the same numbers twice. The revenue amounts for July 1 to December 31, 2001 are not available to use as part of the base to determine the revenue growth for the fiscal year ended June 30, 2003.

Based upon my review of the financial information provided to me and the information provided by management I am able to make the following general statements:

1. Gross revenue grew at a much smaller rate in the initial years after Mr. Volpe decreased his involvement with Swift Kennedy.
2. Fiscal years 2004 and 2005 produced EBITDA percentages that were at least ten points less than the old company average.

I hope that this information will be useful to you.

Sincerely,



Edwin Rosenthol

24711

Edwin Rosenthol
Certified Public Accountant
Accredited in Business Valuation

Suite 3700 * One Liberty Place* Philadelphia, PA 19103-7396
Telephone 215-979-1634 * Fax 215-979-1626
E-mail Dwintax@AOL.com

CURRICULUM VITAE

EDUCATION

Temple University - BS Degree in Accounting

PROFESSIONAL LICENSES AND DESIGNATIONS

Certified Public Accountant - Pennsylvania

Florida (inactive)

ABV (Accredited in Business Valuation) conferred by American Institute of Certified Public Accountants

INSTRUCTORSHIPS

Pennsylvania Institute of Certified Public Accountants

Speaker Annual Forensic & Litigation Services Conference - 1997

Speaker Annual Divorce Conference - 2003, 1999, 1998, 1997

Pa. Bar Institute Panelist

Equitable Distribution and Retirement Planning

Pennsylvania Institute of Certified Public Accountants

Valuation of a Professional Practice

Administrative Office of the Pennsylvania Courts

Financial Statements in the Courtroom

PROFESSIONAL ASSOCIATIONS

American Institute of Certified Public Accountants

Pennsylvania Institute of Certified Public Accountants

Florida Institute of Certified Public Accountants

The Institute of Business Appraisers

CAREER EXPERIENCE

Sole Practitioner, 1991 - Present

Zelenkofske, Axelrod & Co., Ltd., Jenkintown, PA

Partner in Charge of Litigation Services

Glickman, Berkovitz, Levinson & Weiner, P.C., Ft. Washington, PA

Principal - Litigation Services Department

Fishbein & Company, Elkins Park, PA

Audit Manager

Goldfarb, Kirschbaum & Co., Philadelphia, PA

LITIGATION SUPPORT and VALUATION EDUCATION

AICPA - Advanced Business Valuation Conference - 2003, 2002, 1997

PICPA - Co-Chair Annual Divorce Conference - 2003, 2002, 2001, 2000

PICPA - Co-Chair Annual Forensic & Litigation Services Conference - 2002, 2001, 2000, 1999

AICPA - National Conference on Divorce - 2000, 1996, 1995, 1994 & 1993

AICPA - National Forensic & Litigation Services Conference - 1999

Institute of Business Appraisers - Annual conference - 1999

American Society of Appraisers - Business Valuation Methodology

COURT and DEPOSITION TESTIMONY

Appearances in the Court of Common Pleas, and before the Masters in Equitable Distribution Hearings in Philadelphia, Montgomery, Bucks, Delaware, Chester and Luzerne Counties. Appearances in U.S. District Court, New Jersey Superior Court, Superior Court of the State of New York and the Delaware County Court of Common Pleas for various commercial litigation.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

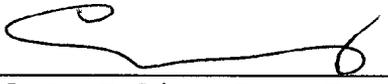
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a copy of Plaintiff's Motion in Limine - Edwin Rosenthol, in the above-captioned matter to the following party by postage prepaid United States first class mail on the 2nd day of April, 2007:

Mark S. Weaver, Esquire
James M. Connelly, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801.

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
	:	
SWIFT KENNEDY & ASSOCIATES, INC.	:	PLAINTIFF'S MOTION
AND HELPMATES, INC.,	:	IN LIMINE RE:
Defendants	:	ROBERT M. GLUS

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

J

FILED 400 A.H. Belin
03:00 LM
APR 02 2007 (LM)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

ORDER

AND NOW this ____ day of _____, 2007, upon
considering Plaintiff's Motion in Limine in re: Robert M.
Glus, it is the ORDER of the Court that said motion is hereby
(granted) (denied).

If granted, Robert M. Glus is hereby precluded from
testifying in this case as to his report dated March 6, 2007.

BY THE COURT,

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

PLAINTIFF'S MOTION IN LIMINE
ROBERT M. GLUS

AND NOW comes the Plaintiff, Stephen R. Volpe ("Volpe") by his counsel, Carl A. Belin, Jr., of Belin, Kubista & Ryan, and files the following motion in limine to preclude the testimony of Robert M. Glus ("Glus") at trial, and in support thereof avers as follows:

1. Volpe has sued Swift Kennedy & Associates, Inc. and Helpmates, Inc. (both "SKA") for the breach of several of the contracts which are interrelated and which together constitute the sale of an insurance business known as SKA to Helpmates.

2. The contracts include a stock sale agreement, an employment contract, a separate contract as to certain benefits to be provided Volpe, an oral agreement between the parties as to the change of the transaction from a "stock sale" to an

"asset sale," and a claim for casualty referral commissions paid over to SKA and not paid to Volpe.

3. The written contracts have been admitted by Helpmate, a summary judgment has been entered as to the oral contract so that the only issues remaining are the construction of the contracts by Your Honorable Court and the facts and circumstances supporting each parties' position as to the breach of contracts that occurred.

4. That Volpe sued SKA for the termination of his health benefits under a contract entitled "Exhibit 'A'":

"Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue." (emphasis added)

5. Glus has submitted a report purporting to set forth the present value of the health benefits provided Volpe under the Exhibit "A" Contract, which report is attached hereto as Exhibit "1."

6. That Glus has included a valuation in his report of his opinion of the present value of the SKA health benefits it is providing its employees under the group policy.

7. That SKA terminated Volpe's health benefits, is no longer provided these benefits to Volpe, and has forced him to seek the health benefits agreed upon in the marketplace.

8. That the value of the benefits provided by SKA is irrelevant to the issue of the value of the benefits in the market place to replace the benefits as a result of SKA's termination of such benefits.

9. That the only issue is the present value of the benefits agreed upon by SKA in the market place.

10. That this action is based on a contract and seeks to recover the value of such benefits agreed upon by the parties.

11. That Glus has used the premiums that Volpe has paid since the termination of his benefits, rather than determining the present value of the benefits agreement: "equal or equivalent to Keystone Select Blue."

12. That Glus recognizes the contractual benefit is higher than his calculation because he states:

"Please note that these calculations do not consider any benefit differences that exist between the SKA benefit plan and the replacement individual policy. These calculations simply provide for an estimated present value of premium payments expected under the two scenarios detailed above."

13. That the present value of the premiums paid by Volpe are irrelevant to the issue of the value of the benefit agreed upon by the parties which is the issue in this case.

14. As set forth in *Snyder v. Markitell*, 52 A.2d 186 (Pa.Super 1947) at 187, in an analogous situation, the Court stated:

"The only question, therefore, for the jury was this: Which of the parties had correctly stated the terms of their agreement? But defendants offered the testimony of two builders, alleged experts, who were asked the highly ambiguous question: 'What in your opinion would be the cost of that work to the owner?' This presumably was intended to elicit from them an estimate as to what they themselves would have charged for the work, or what they thought other contractors might have charged; the one witness answered that the cost would be \$6750, the other \$6972.82. The admission of this testimony over plaintiff's objection was clearly erroneous: *Siebert v. Householder*, 8 Sadler 576, 10 A. 784; *Blank v. Shoemaker*, 65 Pa.Super. 255; *United Embroidery Co., Inc., v. Gorin*, 97 Pa.Super. 598. It raised an issue that was not in the case. Plaintiff was not suing on a quantum meruit **but on an express contract.**"

15. That as a result the opinion rendered by Glus does not address the issue of the present value of the insurance benefit agreed upon by SKA in the "Exhibit A" contract and is irrelevant to that issue.

16. That the difference between the benefit agreed upon and the report of Glus is not stated hence it is incompetent to prove that issue and its admission will only confuse the jury on this issue.

17. The mere fact Volpe chose a less expensive policy does not change this result as he assumed the risk of additional medical expenses over and above the policy agreed upon by SKA as the value of that policy was the issue not Volpe's expenses.

WHEREFORE, Volpe requests Your Honorable Court to enter an order precluding Glus from testifying in this case as to his report.

And he will ever pray.

BELIN, KUBISTA & RYAN



Carl A. Belin, Jr., Esquire
Attorney for Plaintiff



Conrad M. Siegel, F.S.A.
Harry M. Leister, Jr., F.S.A.
Clyde E. Gingrich, F.S.A.
Robert J. Dolan, A.S.A.
David F. Stirling, A.S.A.
Robert J. Mrazik, F.S.A.
David H. Killick, F.S.A.
Jeffrey S. Myers, F.S.A.
Thomas L. Zimmerman, F.S.A.
Glenn A. Hafer, F.S.A.
Kevin A. Erb, F.S.A.
Frank S. Rhodes, F.S.A., A.C.A.S.
Holly A. Ross, F.S.A.
Janel M. Leymeister, CEBS
Mark A. Bonsall, F.S.A.
John W. Jeffrey, F.S.A.
Denise M. Polin, F.S.A.
Thomas W. Reese, A.S.A.
Jonathan D. Cramer, A.S.A.
John D. Vargo, F.S.A.
Robert M. Gius, A.S.A.
Bruce A. Sentf, CEBS
Laura V. Hess, A.S.A.
Vicki L. Delligatti
Lesley A. Bausch-Ward, A.S.A.
Timothy J. Patota, E.A.

March 6, 2007

Mark S. Weaver
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801

Dear Mr. Weaver:

As requested, I have prepared the following information regarding the present value of health insurance premiums projected for Mr. Volpe and his wife until their date of Medicare eligibility, which is through January 2012 for Mr. Volpe and through April 2013 for Mrs. Volpe.

Swift, Kennedy & Associates Plan

Using a healthcare cost trend rate of between 7% and 10%, and assuming the plan of benefits included in the valuation is the current Swift, Kennedy & Associates PPOBlue High Option II, the present value of health insurance premiums provided to Mr. Volpe and his wife as of January 1, 2007 is between \$68,000 and \$72,650. This amount includes between \$6,550 and \$7,500 for the value of Mrs. Volpe's individual premiums until she reaches Medicare eligibility, which is 15 months after Mr. Volpe reaches Medicare eligibility.

Assumptions other than the healthcare cost trend rate include:

- Current premium cost for husband/wife coverage of \$981.27 for 2007.
- A discount rate of 4.65%. (This discount rate was selected based on the Moody's medium-term treasury yield averages as of December 31, 2006.)
- No mortality assumption.

Replacement Individual Policy

Again using a healthcare cost trend rate of between 7% and 10%, and assuming the plan of benefits is consistent with the replacement individual policy in place for Mr. Volpe since the end of his COBRA benefit period (presumably the ClassicBlue Traditional/100/Major Medical), the present value of health insurance premiums provided to Mr. Volpe and his wife as of January 1, 2007 is between \$70,250 and \$77,250. This amount includes between \$6,800 and \$8,000 for the value of Mrs. Volpe's individual premiums until she reaches Medicare eligibility, which is 15 months after Mr. Volpe reaches Medicare eligibility.

Exhibit "1"



Robert M. Glus, A.S.A.
Consulting Actuary



Mr. Weaver
March 6, 2007
Page 2

Assumptions other than the healthcare cost trend rate include:

- A premium cost for husband/wife coverage of \$948.40 for 2006.
- A discount rate of 4.65%. (Same as above.)
- No mortality assumption.

Please note that these calculations do not consider any benefit differences that exist between the SKA benefit plan and the replacement individual policy. These calculations simply provide for an estimated present value of premium payments expected under the two scenarios detailed above.

If you have any questions or require other analysis, please let me know.

Yours sincerely,

A handwritten signature in cursive script that reads "Robert M. Glus".

Robert M. Glus, A.S.A.
Consulting Actuary

RMG:sas

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

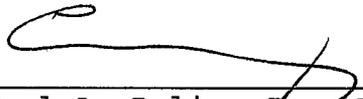
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a copy of Plaintiff's Motion in Limine - Robert M. Glus, in the above-captioned matter to the following party by postage prepaid United States first class mail on the 2nd day of April, 2007:

Mark S. Weaver, Esquire
James M. Connelly, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801.

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
	:	
SWIFT KENNEDY & ASSOCIATES, INC.	:	PLAINTIFF'S
AND HELPMATES, INC.,	:	MOTION FOR CONTINUANCE
	:	IN RE: ROBERT M. GLUS
Defendants	:	IN RE: EDWIN ROSENTHOL

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 4cc
013:2664 Amy Belin
APR 05 2007
Ⓞ

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

MOTION FOR CONTINUANCE

NOW COMES, Stephen R. Volpe, by and through his attorneys, Belin, Kubista & Ryan, and sets forth the following Motion for Continuance, and in support thereof would aver as follows:

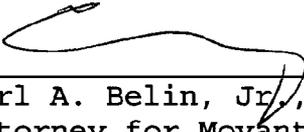
1. That Movant is Stephen R. Volpe, Plaintiff in the above-captioned matter.
2. That Respondents are Swift Kennedy & Associates, Inc., and Helpmates, Inc., Defendants in the above-captioned matter.
3. That Movant filed a Motion in Limine in re: Robert M. Glus, and a Motion in Limine in re: Edwin Rosenthol, which resulted in an argument being scheduled on May 10, 2007, 11:00 a.m.

4. That Movant's counsel is scheduled to be out of the office the week of May 7, 2007.

5. That as a result of the scheduling conflict, Movant would request that the argument scheduled in the above set forth matter be rescheduled.

WHEREFORE, Movant requests Your Honorable Court to reschedule the argument.

BELIN, KUBISTA & RYAN



Carl A. Belin, Jr., Esquire,
Attorney for Movant

6A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

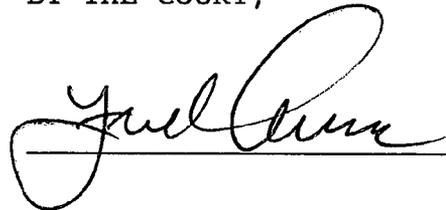
STEPHEN R. VOLPE,	:	
	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	
Defendants	:	

ORDER

AND NOW this 4 day of April, 2007, upon considering Plaintiff's Motion in Limine in re: Edwin Rosenthol, it is the ORDER of the Court that an argument is scheduled for the 10th day of May, 2007, at 11:00 o'clock A M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that Movant shall submit his brief on _____, 2007, and Respondent on _____, 2007.

BY THE COURT,



FILED

019:3431 4cc
APR 05 2007 Amy Belin

William A. Shaw
Prothonotary/Clerk of Courts

FILED

APR 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/5/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

4
4/5/07

4701

A

0377

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	
Defendants	:	

ORDER

AND NOW this 4 day of April, 2007, upon considering Plaintiff's Motion in Limine in re: Robert M. Glus, it is the ORDER of the Court that an argument is scheduled for the 10th day of May, 2007, at 11:00 o'clock A M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that Movant shall submit his brief on , 2007, and Respondent on , 2007.

BY THE COURT,



FILED
019.3030
APR 05 2007

400
Atty Belin

(6)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

APR 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/5/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
 :
SWIFT KENNEDY & ASSOCIATES, INC. : CERTIFICATE OF SERVICE
AND HELPMATES, INC., : MOTION FOR CONTINUANCE
Defendants : AND ORDER

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED ^{icc}

02:48 PM Amy Belin
APR 09 2007
LM

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

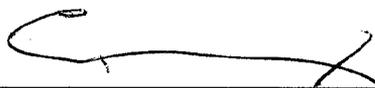
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Plaintiff's Motion for Continuance and Order in re: Edwin Rosenthol and Robert M. Glus, in the above-captioned matter to the following party by postage prepaid United States first class mail on the 9th day of April, 2007:

Mark S. Weaver, Esquire
James M. Connelly, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801.

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiff

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,	:	
	:	
Plaintiff	:	
	:	No. 03 - 1867 - CD
vs.	:	
	:	JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC.	:	
AND HELPMATES, INC.,	:	
Defendants	:	

ORDER

NOW THIS 5th, day of April, 2007, upon Movant's Motion for Continuance, it is hereby ORDERED and DECREED that said Motion is granted and the argument scheduled for May 10, 2007 at 11:00 a.m. is rescheduled for April 30, 2007 at 1:30 p.m., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT



 Judge

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 0110:13/BJ
 APR 09 2007
 Amy Belin
 GK

William A. Shaw
Prothonotary/Clerk of Courts

FILED

APR 09 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/9/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOPLE,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

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*

NO. 03-1867-CD

ORDER

AND NOW, this 9th day of April, 2007, it is the ORDER of the Court that a
Pre-Trial Conference in the above matter shall be held on the **20th day of April, 2007,**
in Chambers at 9:30 o'clock a.m.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

APR 10 2007

0/9:00/w
William A. Shaw
Prothonotary/Clerk of Courts

sent to Atty's BELIN
+

WEAVER

EW

DATE: 4-10-07

- You are responsible for serving all appropriate parties.
- The Prothonotary's office has provided service to the following parties:
 - Plaintiff(s) Plaintiff(s) Attorney Other
 - Defendant(s) Defendant(s) Attorney
 - Special Instructions:

William A. Shaw
Prothonotary/Clerk of Courts

FILED
APR 10 2007

UA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED
07/4:00
APR 23 2007

STEPHEN R. VOPLÉ,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

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NO. 03-1867-CD

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty's: Selin
Weaver
GP

ORDER

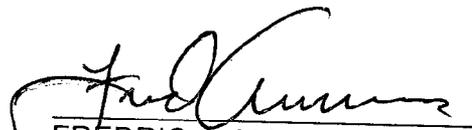
NOW, this 20th day of April, 2007, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on May 1, 2007 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for June 25, 26 and 27, 2007 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of trial.
4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The

responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

5. Counsel for both parties shall supply proposed jury instructions to the Court within no later than ten (10) days prior to the commencement of the jury trial.
6. This Court had previously issued an Order scheduling argument on the Plaintiff's Motion in Limine for April 30, 2007 at 1:30 p.m. Pursuant to the request set forth in Plaintiff's pre-trial statement, the Court will also hear argument at that time on the Plaintiff's request that the Court reconsider one count of the Plaintiff's Motion for Summary Judgment which was previously dismissed by this Court.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED

APR 23 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/22/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s)/Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

LA

W:\Clients\H\Helpmates, Inc\Volpe Employment Term\motion for continuance.4-26-07.doc

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading:
MOTION FOR CONTINUANCE

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
DEFENDANTS

Mark S. Weaver, Esquire
PA Supreme Court No. 63044
James M. Connelly, Esquire
PA Supreme Court No. 42272

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801
Telephone: (814) 237-6255

FILED NO CC
MAY 01 2007 GR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

MOTION FOR CONTINUANCE

AND NOW COMES, Defendants Swift Kennedy & Associates, Inc. and Helpmates, Inc., by and through its attorneys, The Mazza Law Group, P.C., and sets forth the following Motion for Continuance, and in support thereof would aver as follows:

1. Movants are Swift Kennedy & Associates, Inc. and Helpmates, Inc., Defendants in the above captioned matter.
2. That Respondent is Stephen R. Volpe, Plaintiff in the above captioned matter.
3. That in addition to Motions already filed on behalf of Respondent to date, Movants have received on this date packet of materials from Respondent's Counsel, including the following: Supplemental Brief on Summary Judgment and Brief on Motions in Limine previously filed.
4. While argument involving Motions in Limine was previously scheduled by the Court for May 10, 2007, at 11:00 a.m., Respondent's Counsel requested rescheduling of same due to counsel being scheduled out of this office for the week of May 7, 2007. Your Movants herein did not oppose the Court's rescheduling argument on Motions for April 30, 2007, at 1:30 p.m.
5. In light of the fact that Movants just received on April 26, 2007, the aforementioned Briefs from Respondent's counsel, and given that Movants are filing at least one

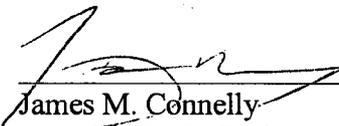
Motion in Limine referable to prior determination of this Court in terms of the Declaratory Judgment Action previously filed by Respondent, Movants respectfully request the Continuance of Oral Argument to allow Movant additional time for preparation purposes.

WHEREFORE, Movants respectfully request Your Honorable Court to reschedule the Argument.

Respectfully submitted,

Date

4/27/07


James M. Connelly

Attorney for Defendants

PA ID No.: 42272

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

CERTIFICATE OF SERVICE

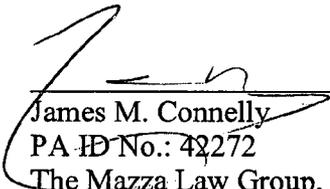
I hereby certify that on this day, a true and correct copy of the foregoing Motion for Continuance was served on all parties of record in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

Date

4/27/07


James M. Connelly

PA ID No.: 42272

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: weaver@mazzalaw.com

connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading:
MOTION FOR CONTINUANCE

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
DEFENDANTS

Mark S. Weaver, Esquire
PA Supreme Court No. 63044
James M. Connelly, Esquire
PA Supreme Court No. 42272

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801
Telephone: (814) 237-6255

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
v. : No. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

MOTION FOR CONTINUANCE

AND NOW COMES, Defendants Swift Kennedy & Associates, Inc. and Helpmates, Inc.,
by and through its attorneys, The Mazza Law Group, P.C., and sets forth the following Motion
for Continuance, and in support thereof would aver as follows:

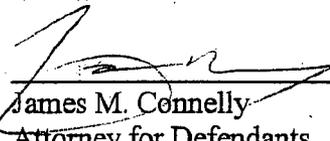
1. Movants are Swift Kennedy & Associates, Inc. and Helpmates, Inc., Defendants
in the above captioned matter.
2. That Respondent is Stephen R. Volpe, Plaintiff in the above captioned matter.
3. That in addition to Motions already filed on behalf of Respondent to date,
Movants have received on this date packet of materials from Respondent's Counsel, including
the following: Supplemental Brief on Summary Judgment and Brief on Motions in Limine
previously filed.
4. While argument involving Motions in Limine was previously scheduled by the
Court for May 10, 2007, at 11:00 a.m., Respondent's Counsel requested rescheduling of same
due to counsel being scheduled out of this office for the week of May 7, 2007. Your Movants
herein did not oppose the Court's rescheduling argument on Motions for April 30, 2007, at 1:30
p.m.
5. In light of the fact that Movants just received on April 26, 2007, the
aforementioned Briefs from Respondent's counsel, and given that Movants are filing at least one

Motion in Limine referable to prior determination of this Court in terms of the Declaratory Judgment Action previously filed by Respondent, Movants respectfully request the Continuance of Oral Argument to allow Movant additional time for preparation purposes.

WHEREFORE, Movants respectfully request Your Honorable Court to reschedule the Argument.

Respectfully submitted,

4/27/07
Date


James M. Connelly
Attorney for Defendants
PA ID No.: 42272
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
E-mail: connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

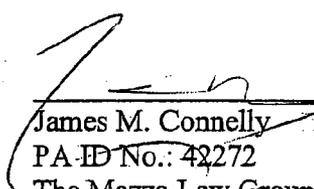
CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the foregoing Motion for Continuance was served on all parties of record in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

4/27/07
Date


James M. Connelly
PA ID No.: 42272
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
E-mail: weaver@mazzalaw.com
connelly@mazzalaw.com

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOPLE,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.,
Defendants

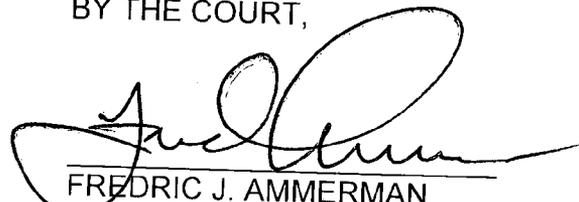
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NO. 03-1867-CD

ORDER

AND NOW, this 1st day of May, 2007, upon review and receipt of the Defendants' Motion for Continuance, in reference to argument on Motions in Limine, and upon agreement of Plaintiff's counsel; it is the ORDER of this Court that argument on said Motions shall be held on the **3rd day of May, 2007, at 2:00 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

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012:22/01 Atty
MAY 01 2007 Connolly
William A. Shaw
Prothonotary/Clerk of Courts
WR

FILED

MAY 01 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE

5/1/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading:
MOTION IN LIMINE

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
DEFENDANTS

Mark S. Weaver, Esquire
PA Supreme Court No. 63044
James M. Connelly, Esquire
PA Supreme Court No. 42272

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801
Telephone: (814) 237-6255

FILED ^{1cc}
MAY 01 2007
Connelly
William A. Shaw
Prothonotary/Clerk of Courts (67)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

:
:
:
:
:
:

No. 03-1867-CD

ORDERED

AND NOW, this ____ day of _____, 2007, upon consideration of Defendants' Motion in Limine to preclude Plaintiff from presenting any evidence or making any claims to the effect that paragraph no. 1 of the April 30, 2002, Employment Agreement is susceptible to more than one construction or interpretation than that which has already been determined by both the Trial Court and Superior Court, and Plaintiff's response thereto, it is hereby ORDERED and DECREED said Motion is (Granted) (Denied).

If granted, Plaintiff is hereby precluded from presenting any evidence at time of Trial to the effect that the April 30, 2002; Employment Agreement required Plaintiff to work only five (5) hours per week.

By the Court,

J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

No. 03-1867-CD

DEFENDANTS' MOTION IN LIMINE TO PRECLUDE PLAINTIFF FROM
PRESENTING EVIDENCE CONTRARY TO PARAGRAPH ONE OF THE
APRIL 30, 2002, EMPLOYMENT AGREEMENT

Defendants, Swift Kennedy & Associates, Inc. (hereinafter "SKA") and Helpmates, Inc. (hereinafter "HI"), by and through their undersigned counsel, The Mazza Law Group, P.C., hereby file this Motion in Limine seeking to preclude Plaintiff from presenting any evidence at time of trial to the effect that paragraph no. 1 of the April 30, 2002, Employment Agreement (attached as Exhibit "1") entered into between Defendant SKA and Plaintiff, Stephen R. Volpe (hereinafter "Volpe"), is susceptible of more than one construction or interpretation and/or that Plaintiff was required to work only "five (5) hours per week," and in support thereof aver as follows:

1. Volpe has sued SKA and HI for claimed breach of several contracts, inter alia, an Employment Agreement dated April 30, 2002.

2. A part of the Employment Agreement as paragraph no. 1, was the following language:

During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on the behalf of the Corporation, as a sales person of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an Officer in/or Director of the Corporation at least five (5) hours per week.

See Exhibit "1."

3. On or about February 20, 2003, Volpe filed a Complaint for Declaratory Action pursuant to 42 P. S. § 7542, seeking to have this Court declare that pursuant to the terms of paragraph no. 1 of the Employment Agreement, Volpe was required to work no more than five (5) hours per week as a sales person of health related benefits.
4. Hearing was held before this Honorable Court with respect to this Declaratory Judgment action on May 21, 2003, at which time the Court considered both testimonial and documentary evidence.
5. On July 9, 2003, then President Judge, John K. Reilly, Jr., dismissed Plaintiff's Declaratory Judgment action and in The Court's Opinion determined that:

Only one reasonable interpretation can be applied to this set of facts and that is that the Plaintiff must devote his skill and efforts to the performance of duties on behalf of the Corporation as a sales person. In this regard, no specific hours or times are set forth. It is further clear that at the Corporation's request he must serve as an Officer in/or Director of the Corporation at least five (5) hours per week. *This time requirement applies only to the Corporation's request that he serve in a capacity of Officer or Director.* (emphasis added)

See true and correct copy of Opinion and Order of Judge John K. Reilly, Jr. attached hereto and made a part hereof as Exhibit "2."

6. In its aforesaid Opinion, the Trial Court further added, that under the controlling

law, "parole evidence is inadmissible as the intent of the parties is clear from the document [Employment Agreement]..." See Exhibit "1," page 3.

7. On March 17, 2004, Volpe filed an Appeal to the Pennsylvania Superior Court challenging the propriety of the Trial Court's interpretation of paragraph no. 1 of the Employment Agreement. However, the Superior Court filed a Memorandum Opinion on November 22, 2004, affirming the Trial Court's July 9, 2003, decision and in so doing held that "[Volpe's] attempt to have us substitute 'at most' for 'at least' based on the facts and circumstances surrounding the contract's formation fails. The fact that the language in the prior draft setting average hours was omitted from the final draft in favor of the present version, which actually supports the argument that there was to be no maximum hour requirement, is of no moment if the contract terms are not ambiguous." (See true and correct copy of the Pennsylvania Superior Court's Memorandum Opinion attached hereto as Exhibit "3," page 6). Accordingly, the Superior Court agreed with the Trial Court that parole evidence is inadmissible as to the intent of the parties when the document is unambiguous on its own.
8. The November 22, 2004, Memorandum Opinion of the Pennsylvania Superior Court is a final determination as further Appeal was not initiated with regard to same.
9. Accordingly, the law of the case doctrine precludes Volpe from re-litigating the meaning/interpretation to be given paragraph no. 1 of the Employment Agreement. *George v. Ellis, et al*, 911 A.2d 121, 126 (Pa.Super. 2006); See also, *Commonwealth v. McCandless*, 880 A 2d 1262, 1267 (Pa.Super. 2005)

10. Based on the foregoing, Volpe should not be permitted to obtain yet another "bite at the same apple," as this Honorable Court, as well as the Superior Court have already determined that Volpe's argument in this regard is without merit.

WHEREFORE, Defendants Swift Kennedy & Associates, Inc., and Helpmates, Inc. respectfully request that this Honorable Court enter an Order in the form proposed.

Respectfully submitted,

Date

4/30/07


James M. Connelly, Esquire

Attorney for Defendants

PA ID No.: 42272

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: connelly@mazzalaw.com

Employment Agreement

THIS AGREEMENT is made effective the 30th day of April, 2002, by and between:

Swift-Kennedy & Associates, Inc., a Pennsylvania corporation (hereinafter referred to as the "Corporation"),
and

Stephen R. Volpe, of 1017 Green Glen Drive, DuBois, Pennsylvania 15801 (hereinafter referred to as the "Employee"). The Corporation hereby employs Employee and Employee hereby accepts employment on the terms and conditions that follow:

1. During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation at least five (5) hours per week.
2. All insurance sales business and/or services performed by the Employee and any revenues derived from them shall be considered the business and the income of the Corporation. The Employee shall be obligated during the term of this Agreement to irrevocably assign all revenues to the Corporation immediately upon receipt by the Employee other than as prohibited by the securities laws of the United States and the Commonwealth of Pennsylvania.
3. As compensation for the services to be rendered by Employee, the Corporation shall pay Employee a fixed salary at a rate per year specified in Schedule A, attached to this Agreement and made a part of it, payable in accordance with the Corporation's normal payroll periods for all employees unless otherwise agreed. Provided that if the employment shall terminate for any reason then the salary payable for the period during which the employment terminates shall be prorated. In addition, Employee shall be entitled to participate in the benefit plan(s) as specified on Schedule A, and shall receive commission compensation as specified on Schedule A.
4. As additional compensation, the corporation shall pay employee such bonus or bonuses as may from time to time be awarded to Employee by the Board of Directors of the Corporation, in its discretion, payable at times and in amounts that the Board of Directors may determine.

Exhibit "1"

5. The term of employment shall be five (5) years from the date specified in Schedule A attached to this Agreement, but subject to the following:

(a) This Agreement may be terminated at any time by mutual agreement in writing of the Corporation and Employee.

(b) If during the effective period of this Agreement Employee violates any of the provisions of this Agreement, the Corporation may, on 30 days notice to Employee, terminate this Agreement.

(c) For cause, including without limitation, Employee's failure or refusal to perform obligations under this Agreement, the Corporation may terminate this Agreement at any time on 30 days notice to Employee.

(d) The corporation may terminate this Agreement on 30 days written notice to Employee in the event the Corporation adopts a bona fide plan to terminate its business and liquidate its assets, or on the Corporation being ordered to be liquidated pursuant to a judicial proceeding.

(e) At the end of the employment term as set forth herein, Employee may renew this Agreement on a year to year basis for so long as Employee so desires. Employee shall be compensated during the renewal terms of this Agreement by receiving fifty (50%) percent of commissions on the net commission payable to the Corporation on all new business and on renewals of new business generated from the commencement date of this Agreement. Corporation shall also be obligated to continue to provide health insurance to Employee and Employee's spouse as set forth on Schedule A.

6. Employee agrees that during the term of this Agreement he will not engage in any other business duties or pursuits whatsoever, directly or indirectly, except activities approved in writing by the Board of Directors, directorships and companies not in competition with the Corporation, and passive personal investments. Furthermore, employee will not, directly or indirectly, be interested in any business competing with or similar in nature to the business of the Corporation and will not hold to any substantial degree any securities in any company competing with the Corporation.

7. Employee agrees to observe and comply with the rules and regulations of the Corporation as adopted by the Corporation's Board of Directors, either orally or in writing, respecting performance of duties and to carry out and perform orders, directions, and policies stated by the Corporation, from time to time, either orally or in writing, as uniformly applied to all employees of the Corporation. Employee specifically understands that the Corporation shall have final authority over acceptance or refusal of any customer and over the amounts to be charged any customer for materials and/or services.

8. Employee recognizes and acknowledges that the list of the Corporation's customers, as it may exist from time to time, is a valuable, special, and unique asset of the Corporation's business. Employee will not, during or after the term of employment, disclose the list of the Corporation's customers or any part of it to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever. In the event of a breach or threatened breach by Employee of the provisions of this paragraph, the Corporation shall be entitled to an injunction restraining Employee from disclosing, in whole or in part, the list of the Corporation's customers, or for rendering any services to any person, firm, corporation, association, or other entity to whom this list, in whole in part, has been disclosed or threatened to be disclosed. Nothing in this Agreement shall be construed as prohibiting the Corporation from pursuing any other remedies available to the Corporation for such disclosure, including the recovery of damages from Employee.

9. During the period of employment, Employee will be reimbursed for reasonable expenses incurred on behalf of the Corporation in an amount not to exceed \$300 per month. In addition, Employee shall be entitled to use an automobile owned and insured by the Corporation as set forth on Schedule A in the conduct of business on behalf of the Corporation, and shall receive a credit card in the name of the Corporation for gasoline purchases. The Employee agrees to utilize the benefits set forth above only in accordance with the general policy of the Corporation as adopted by the Corporation's Board of Directors, from time to time and as uniformly applied to all employees of the Corporation. Corporation shall pay all of Employee's continuing education requirements and licensing fees, together with ancillary expenses, and such other expenses as are necessary to allow Employee to maintain his license to sell and broker insurance in the Commonwealth of Pennsylvania.

10. In addition to reimbursable expenses, the Employee may incur and pay in the course of employment by the Corporation certain other necessary expenses, which he will be required personally to pay and which the Corporation shall be under no obligation to reimburse, including, but not limited to the following: professional, entertainment, and promotional expenses; home telephone bills; educational expenses incurred for the purpose of maintaining or improving the Employee's skills other than continuing education requirements; club dues and the expenses of membership in civic groups, societies, and fraternal organizations; and all other items of reasonable and necessary expenses incurred by the Employee in the interests of the business of the Corporation. Nothing this paragraph will prevent the Corporation from agreeing to pay or reimburse Employee, in whole or in part, for any expenses in any of the categories enumerated above.

11. On termination of this agreement, Employee shall not be entitled to keep or preserve records or files that the Corporation has to any customers.

12. Employee shall be entitled to an annual vacation without loss of compensation, as specified in Schedule A attached to this Agreement. Employee shall be entitled to additional time without loss of compensation for attendance at meetings, conventions, and educational courses as the Board of Directors shall, from time to time, approve.

13. All notices required under this Agreement shall be in writing shall be deemed to have given at the time they are mailed in any general or branch United States Post Office, enclosed in a registered or certified postage paid envelope addressed to the respective parties as stated below, or to such changed address the party may have fixed by notice:

If to Corporation: Swift-Kennedy & Associates, Inc..
c/o Helpmates, Inc.
225 South Street
Ridgway, PA 15853
Attn: Mr. G. Scott Carlson, President

If to Employee: Mr. Stephen R. Volpe
1017 Green Glen Drive
DuBois, PA 15801

Provided, however, that any notice of change of address shall be effective only upon receipt.

14. Failure to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of the term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers at anytime or times be deemed a waiver or relinquishment of the right or power for all or any other times.

15. Both parties recognize that the services to be rendered under this Agreement to the Corporation are special, and unique, and of extraordinary character. In the event of the breach by Employee of the terms and conditions of this Agreement, or in the event Employee shall without the written consent of the Corporation leave such employment and perform, in the future, services for any person, firm, or Corporation engaged in a competing business with the Corporation, then the Corporation shall be entitled to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in equity, to obtain damages for any breach of this Agreement, to enforce the specific performance by Employee, or to enjoin Employee from performing services for any other person, firm, or Corporation, during the period contracted for in this Agreement, without the need of posting any bond or other security during the pendency of such action.

16. The invalidity or unenforceable of any term, provision, or clause of this Agreement shall in no way impair or affect the validity or enforceability of any other provision of this Agreement, but shall remain in full force and effect.

17. This Agreement is personal in its nature and neither of the parties shall, without the consent of the other, assign or transfer this Agreement or any rights or obligations under this Agreement, except that the Corporation may assign or transfer this Agreement to a successor corporation in the event of merger, consolidation, transfer, or sale of all or substantially all of the assets of the Corporation, provided that in the case of any assignment or transfer, this Agreement shall be binding on and inure to the benefit of the successor corporation, and any successor corporation shall discharge and perform all of the obligations of the Corporation under this Agreement.

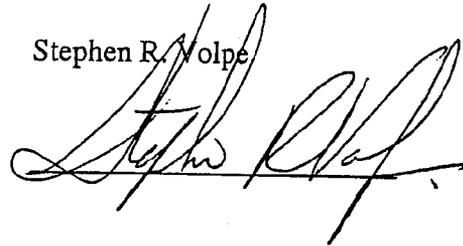
18. In the event of Employee's death or disability, Corporation shall nevertheless be obligated to maintain health insurance covering Employee and Employee's spouse as set forth in Schedule A. Employee or Employee's spouse may continue to have exclusive twenty four (24) hour use of a 2000 Honda Accord and on May 1, 2004, Employee or Employee's spouse may purchase said 2000 Honda Accord from the Corporation for One (\$1.00) Dollar.

In witness whereof, the parties to this writing have duly executed this Agreement as of the day and year first written above.

Swift Kennedy & Associates, Inc.

Stephen R. Wolpe

By: _____



Schedule A

Effective date of this agreement: April 30, 2002

Amount of annual salary: Thirty Five Thousand (\$35,000.00) Dollars per year, payable in accordance with the Corporation's normal payroll periods plus commission.

Commission: Employee shall be entitled to receive a fifty (50%) percent commission on the net commission payable to the Corporation on all new business and on renewals of new business (not existing or renewal business that existed prior to May 1, 2002) generated directly by Employee for all new policies written by Employee during the term of this Agreement. Payments to be made to Employee quarterly.

Annual vacation: Ten (10) weeks

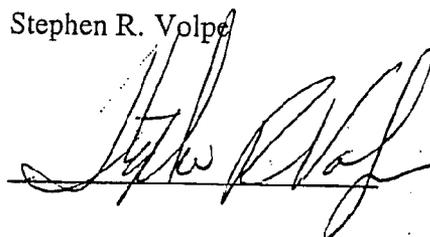
Benefits: Normal health insurance benefits for Employee and Employee's spouse shall be maintained and paid by the Corporation until such time as Employee and/or Employee's spouse reaches an age which will qualify them for Medicare. Said health insurance shall be equal or equivalent to that which Employee currently possesses - Keystone Select Blue.

Automobile: Corporation shall pay the lease payment on Employee's leased Cadillac automobile until the term of said lease ends. Thereafter, Employer shall provide Employee with an automobile lease allowance of \$700.00 per month that Employee can supplement as Employee so desires.

Swift Kennedy & Associates, Inc.

Stephen R. Volpe

By: _____



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE

-vs-

No. 03 - 225 - CD

SWIFT, KENNEDY & ASSOCIATES, INC.

OPINION AND ORDER

Plaintiff above-named has filed a Complaint for Declaratory Action pursuant to 42 P.S. §7542. In his Complaint, Plaintiff alleges that prior to March 26, 2002, he was the owner of all stock in Swift, Kennedy & Associates, Inc., a Pennsylvania corporation engaged in the business of selling employee benefits and health insurance throughout the Commonwealth of Pennsylvania. He further alleges that on March 26, 2002, he, as sole stockholder of Swift, Kennedy & Associates, Inc. entered into a stock purchase agreement with Helpmates, Inc. under the terms of which Plaintiff agreed to sell all of the common stock of Swift, Kennedy & Associates, Inc. to Helpmates, Inc. On April 30, 2002, the transaction closed and Plaintiff conveyed all corporate stock of Swift, Kennedy & Associates, Inc. to Helpmates, Inc. and on that date Plaintiff resigned as an officer and director of Swift, Kennedy & Associates, Inc. Also, on April 30, 2002, Plaintiff and Defendant entered into an employment agreement, which provided in paragraph 1 as follows:

During the period of employment, Employee [Volpe] agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation [Swift Kennedy], as a salesperson of health related benefits, and for no other reason without the express written consent of employee, to maintain and promote the business of the Corporation [Swift Kennedy], and at the Corporation's [Swift Kennedy's] request to serve as an officer in/or director of the Corporation [Swift Kennedy] at least five (5) hours per week.

Plaintiff now seeks to have this Court declare that under the terms of paragraph 1 of the employment agreement set forth above, he is required to work no more than five hours per week as a salesman of health related benefits.

Hearing thereon was held May 21, 2003, at which time Plaintiff presented witnesses as to the intent of the parties at the time the above agreement was entered into.

The general rule of law is that in interpreting a contract, the Court must first examine its language and if the language is clear and unequivocal, its meaning must be determined by its contents alone. See Com. Dept. of Transp. v. Manor Mines, Inc., 523 Pa. 112, 565 A.2d 428 (1989). Further, the Supreme Court of Pennsylvania, in Murphy v. Duquesne Univ. of the Holy Ghost, 565 Pa. 571, 777 A.2d 418 (2001) held as follows:

“When a writing is clear and unequivocal, its meaning must be determined by its contents.” Felte v. White, 302 A.2d 347, 351 (Pa. 1973) (quoting East Crossroads Center Inc. v. Mellon-Stuart Co., 205 A.2d 865, 866 (Pa. 1965)). Only where a contract’s language is “ambiguous” may extrinsic or parol evidence be considered to determine the intent of the parties. Hutchinson v. Sunbeam Coal Co., 519 A.2d 385, 390 (Pa. 1986). A contract contains an ambiguity “if it is reasonably susceptible of different constructions and capable of being understood in more than one sense.” Id. This question, however, is not resolved in a vacuum. Instead, “contractual terms are ‘ambiguous’ if they are subject to more than one reasonable interpretation when applied to a particular set of facts.” Madison Construc. Co. v. Harleysville Mut. Ins. Co., 735 A.2d 100, 106 (Pa. 1999). In the absence of an ambiguity, the plain meaning of the agreement will be enforced. Gene & Harvey Builders, Inc. v. Pennsylvania Mfrs.’ Ass’n Ins. Co., 517 A.2d 910, 913 (Pa. 1986).

In the instant case, it is clear to this Court that paragraph one of the employment agreement is clear upon its face, is not ambiguous and is not reasonably susceptible of different constructions or capable of being understood in more than one sense. Only one reasonable interpretation can be applied to this set of facts and that is that the Plaintiff must devote his skill

and efforts to the performance of duties on behalf of the corporation as a sales person. In this regard, no specific hours or times are set forth. It is further clear that at the corporation's request he must serve as an officer in/or director of the corporation at least five hours per week. This time requirement applies only to the corporation's request that he serve in the capacity of officer or director.

If view of this and of the Appellate decisions cited above, parol evidence is inadmissible as the intent of the parties is clear from the document set forth above.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 9th day of July, 2003, following hearing and briefs into the above-captioned Complaint for Declaratory Action, it is the ORDER of this Court that said Complaint be and is hereby dismissed in accordance with the foregoing Opinion.

By the Court,

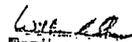
/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 10 2003

Attest.


Prothonotary/
Clerk of Courts

STEPHEN R. VOLPE,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

SWIFT KENNEDY & ASSOCIATES, INC.,

Appellee

No. 423 WDA 2004

Appeal from the Order Entered March 12, 2004,
in the Court of Common Pleas of Clearfield County,
Civil Division, at No. 03-225-CD.

BEFORE: JOYCE, BENDER AND BOWES, JJ.

MEMORANDUM:

FILED: November 22, 2004

Stephen R. Volpe questions the propriety of the trial court's interpretation of a contractual provision that resulted in entry of judgment against him. We affirm.

Appellant instituted this declaratory judgment action against Swift Kennedy & Associates, Inc. ("Swift"), his employer, asking the trial court to interpret a provision in the parties' employment contract. The pertinent background facts are not in dispute. Appellant was the sole shareholder of Swift, an insurance brokerage firm that sells health insurance. Appellant sold his stock to Helpmates, Inc., entering into a written employment agreement as part of the sales agreement. After selling his stock, Appellant started to work for the new owner of Swift in accordance with the employment agreement. When the president of Helpmates, G. Scott Carlson, left the company, Appellant began to experience problems with the new management and ceased coming to work. He then instituted this

J. A31028/04

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

STEPHEN R. VOLPE,
Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

SWIFT KENNEDY & ASSOCIATES, INC.,
Appellee

No. 423 WDA 2004

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MEMORANDUM:

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Appellant instituted this declaratory judgment action against Swift Kennedy & Associates, Inc. ("Swift"), his employer, asking the trial court to interpret a provision in the parties' employment contract. The pertinent background facts are not in dispute. Appellant was the sole shareholder of Swift, an insurance brokerage firm that sells health insurance. Appellant sold his stock to Helpmates, Inc., entering into a written employment agreement as part of the sales agreement. After selling his stock, Appellant started to work for the new owner of Swift in accordance with the employment agreement. When the president of Helpmates, G. Scott Carlson, left the company, Appellant began to experience problems with the new management and ceased coming to work. He then instituted this

action, seeking interpretation of paragraph one of the employment agreement:

During the period of employment, Employee agrees to devote his attention, skill and efforts to the performance of duties on behalf of the Corporation, as salesperson of health related benefits, and for no other reason without the express written consent of the employee, to maintain and promote the business of the Corporation, and at the Corporation's request to serve as an officer in/or director of the Corporation **at least five (5) hours per week.**

(Emphasis added).

After a hearing, during which Appellant and Mr. Carlson both testified that they interpreted the above language as requiring Appellant to work a maximum of five hours a week, the court rejected their interpretation. It concluded that the agreement was clear and unambiguous and set a minimum rather than a maximum work week. This appeal followed denial of Appellant's post-trial motions.

Initially, we note that "in a declaratory judgment action, an appellate court is limited to determining whether the trial court committed a clear abuse of discretion or an error of law." *Vernon Township Volunteer Fire Dep't, Inc. v. Connor*, __ Pa. __, __ A.2d __, __ (No. 33 WAP 2003, filed August 19, 2004). The question of whether language in a contract is ambiguous is one of law. *Kripp v. Kripp*, __ Pa. __, 849 A.2d 1159 (2004). Our standard of review over questions of law is *de novo*, and the scope of our review is plenary. *Id.* __ Pa. at __ n.5, 849 A.2d at 1164 n.5.

Addressing Appellant's issues in the order raised, we first consider "[w]hether the language 'at least five hours per week' should be construed to refer to all the duties set forth in paragraph one of the employment agreement rather than merely to the preceding phrase in that paragraph?" Appellant's brief at 4. The trial court concluded that the term "at least five hours per week" referenced only the duties of the concluding phrase, *i.e.*, Appellant's duties as officer or director. However, the question is largely superfluous. Regardless of whether the phrase refers to Appellant's limited duties or all of the duties described in that paragraph, it does not have the meaning ascribed to it by Appellant.

Appellant's position that the clause sets a maximum number of hours that he must work is untenable. Essentially, Appellant is asking us to interpret "at least" to mean "at most." However, nothing in this language, irrespective of the duties to which it might be construed to apply, sets a maximum work week. The language states that he has to work **at least** five hours. This means that the least number of hours that Appellant must work is five hours a week; the agreement is completely silent on the maximum number of hours Appellant must work.

Since Appellant is requesting this Court to insert language in the contract that is not present, silence on the particular subject cannot be construed to create an ambiguity. The language that Appellant seeks to

insert by implication is not present, and the agreement simply does not say what Appellant suggests that it says.

Appellant's next three arguments are interrelated. He suggests that the language "at least five hours per week" is latently ambiguous and therefore, the trial court erred in rejecting his and Mr. Carlson's construction of it. Appellant avers that his interpretation is supported by a consideration of the facts and circumstances relating to his sale of stock to Helpmates, *i.e.*, the employment agreement was part of the sales price for the business that he negotiated with Helpmates. He contends that the parties envisioned that he would merely train other employees, working a maximum of five hours per week, and that his salary was negotiated as part of the sale of the stock rather than in consideration of his continued work as a full-time employee. Both he and Mr. Carlson testified to this effect. Appellant also suggests that an earlier draft of the agreement supports this interpretation. Specifically, the draft contained a sliding scale regarding the average number of hours Appellant was required to work following the sale of his stock but under the scale, the maximum number of hours that he was required to work weekly was never as low as five.

The pertinent law follows:

The fundamental rule in interpreting the meaning of a contract is to ascertain and give effect to the intent of the contracting parties. *Felte v. White*, 451 Pa. 137, 302 A.2d 347, 351 (Pa. 1973). The intent of the parties to a written agreement is to be regarded as being embodied in the writing itself. *Stuart v. McChesney*, 498 Pa. 45, 444 A.2d 659, 661

(Pa. 1982). The whole instrument must be taken together in arriving at contractual intent. *Felte*, 302 A.2d at 351. Courts do not assume that a contract's language was chosen carelessly, nor do they assume that the parties were ignorant of the meaning of the language they employed. *Steuart*, 444 A.2d at 662. "When a writing is clear and unequivocal, its meaning must be determined by its contents alone." *Felte*, 302 A.2d at 351 (quoting *East Crossroads Center Inc. v. Mellon-Stuart Co.*, 416 Pa. 229, 205 A.2d 865, 866 (Pa. 1965)).

Only where a contract's language is ambiguous may extrinsic or parol evidence be considered to determine the intent of the parties. *Hutchison v. Sunbeam Coal Co.*, 513 Pa. 192, 519 A.2d 385, 390 (Pa. 1986). A contract contains an ambiguity "if it is reasonably susceptible of different constructions and capable of being understood in more than one sense." *Id.* This question, however, is not resolved in a vacuum. Instead, "contractual terms are ambiguous if they are subject to more than one reasonable interpretation when applied to a particular set of facts." *Madison Construction Co. v. Harleysville Mutual Ins. Co.*, 557 Pa. 595, 735 A.2d 100, 106 (Pa. 1999). In the absence of an ambiguity, the plain meaning of the agreement will be enforced. *Gene & Harvey Builders, Inc. v. Pennsylvania Mfrs.' Ass'n Ins. Co.*, 512 Pa. 420, 517 A.2d 910, 913 (Pa. 1986). The meaning of an unambiguous written instrument presents a question of law for resolution by the court. *Community College v. Community College, Society of the Faculty*, 473 Pa. 576, 375 A.2d 1267, 1275 (Pa. 1977).

Murphy v. Duquesne University of the Holy Ghost, 565 Pa. 571, 591, 777 A.2d 418, 430-31 (2001); *see also Yocca v. Pittsburgh Steelers Sports, Inc.*, ___ Pa. ___, ___, 854 A.2d 425, 436 (2004) (When parties place "their engagements in writing, the law declares the writing to be . . . the only evidence of their agreement. All preliminary negotiations, conversations and verbal agreements are merged in and superseded by the subsequent written contract" and unless fraud or mistake is present, if the

J. A31028/04

contract represents the entire agreement of the parties, it cannot be altered by parol evidence.).¹

In this case, the language of the contract is not ambiguous and provides that Appellant work a minimum of five hours a week; the agreement is silent as to the maximum number of hours Appellant is required to work. In light of this fact, Appellant's attempt to have us substitute "at most" for "at least" based on the facts and circumstances surrounding the contract's formation fails. The fact that the language in the prior draft setting average hours was omitted from the final draft in favor of the present version, which actually supports the argument that there was to be no maximum hour requirement, is of no moment if the contract terms are not ambiguous.

As we conclude that the trial court correctly determined that the contract language does not set forth a maximum work week, we affirm.

Order affirmed.

¹ While the stock purchase agreement does contain an integration clause, the employment agreement does not.

J. A31028/04

Judgment Entered:

Eleanor K. Valecko

Deputy Prothonotary

DATE: November 22, 2004



The Superior Court of Pennsylvania
Office of the Prothonotary

GRANT BUILDING
310 GRANT STREET, SUITE 600
PITTSBURGH, PA 15219-2297

DAVID A. SZEWCZAK, ESQUIRE
PROTHONOTARY

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

(412) 565-7592
FAX: (412) 565-7711

WEBSITE: www.superior.pacourts.us

January 26, 2005

Carl A. Belin, Esquire
P.O. Box 1
Clearfield, Pa. 16830

In Re: Stephen R. Volpe v Swift Kennedy & Associates
No. 423 WDA 2004

Dear Mr. Belin:

The Court has entered the following Order on your Application for
Reargument:

ORDER

The Court hereby DENIES the application filed December 6, 2004, requesting
reargument or reconsideration of the decision dated November 22, 2004.

January 26, 2005

PER CURIAM

Very truly yours,

Eleanor R. Valecko

DEPUTY PROTHONOTARY

ERV/smc

Cc: David J. Hopkins, Esquire
Rodney Allen Beard, Esquire
Honorable John Reilly

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

:
:
:
:
:
:

No. 03-1867-CD

CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the foregoing Motion in
Limine was served on all parties of record in the manner indicated below, which service
satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

Date

4/30/07

James M. Connelly

PA ID No.: 42272

The Mazza Law Group, P.C.

1315-South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: connelly@mazzalaw.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
: JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

ORDER

AND NOW, this _____ day of _____, 2007,
upon consideration of the Plaintiff's Answer to Defendants'
Motion in Limine to Preclude Plaintiff From Presenting Evidence
Contrary to Paragraph One of the April 30, 2002, Employment
Agreement it is the ORDER of this Court that the issue
regarding the five (5) hours may not be relitigated, that the
"5 hour" provision may not be used to prove a violation of the
contract, and that Volpe and his witness, David Hopkins, be
authorized to testify as to their belief as to the contract in
the negotiations the parties had prior to the litigation
referred to in Paragraph 3 of the Motion.

BY THE COURT:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
 :
SWIFT KENNEDY & ASSOCIATES, INC. : PLAINTIFF'S ANSWER TO
AND HELPMATES, INC., : DEFENDANTS' MOTION IN
Defendants : LIMINE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 3CC
07:43:01
MAY 03 2007 Atty Belin

William A. Shaw
Prothonotary/Clerk of Courts

(GX)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

PLAINTIFF'S ANSWER TO DEFENDANTS'
MOTION IN LIMINE TO PRECLUDE PLAINTIFF
FROM PRESENTING EVIDENCE CONTRARY TO
PARAGRAPH ONE OF THE
APRIL 30, 2002, EMPLOYMENT AGREEMENT

AND NOW comes the Plaintiff, Stephen R. Volpe ("Volpe") by his counsel, Carl A. Belin, Jr., of Belin, Kubista & Ryan, and files the following answer to Defendants' motion in limine to preclude Plaintiff from presenting evidence contrary to Paragraph One of the April 30, 2002, Employment Agreement, and in support thereof avers as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted but it is averred the Court entered the following Order in the Declaratory Judgment action which is attached hereto as Exhibit "1":

"NOW, this 17th day of April, 2003, this being the day and date set for hearing into

the above-captioned Petition for Injunctive Relief, it is the ORDER of this Court that full hearing on the underlying Complaint for Declaratory Judgment shall be heard by this Court on Wednesday, May 21, 2003, at 9:00 a.m. Pending said hearing and determination thereof, Plaintiff shall be required to work for Defendant on the basis of five hours a week with the Defendant to schedule said hours at Defendant's convenience. . ."

As a result Volpe was not in violation of the Agreement and had no obligation to work more than five (5) hours per week until the conclusion of the case before the lower court.

4. Paragraph 4 is admitted.

5. Paragraph 5 is admitted.

6. Paragraph 6 is admitted as to the proof of the meaning of the agreement. It is averred, however, that Volpe and his attorney were of the belief that the five (5) hours applied to all duties rather than merely the duties of an officer and director.

7. Paragraph 7 is admitted but the appeal took place after Volpe had already been terminated, and it is averred the Superior Court found that the five (5) hours language in the paragraph applied to all Volpe's duties. The Superior Court concluded that five (5) hours was merely the minimum hours to be worked, the agreement was silent as to the maximum hours to be worked, and consequently, no agreement existed as to the

maximum hours to be worked. In any event, that issue is not relevant as Volpe began working forty (40) hours per week as soon as he received notice that Judge Reilly handed down his decision in July of 2003.

8. Paragraph 8 is admitted.

9. Paragraph 9 is admitted but it is averred Volpe did not violate the agreement in this regard because of the April 17, 2003 Order. Moreover, the Court granted summary judgment to Helpmates, Inc., on May 23, 2006, with the concurrence of Volpe as to the judgment as to the issue, and Volpe paid the difference between the five (5) hours and his regular pay as directed by the Court on May 23, 2006. Volpe has paid the monies for that judgment to Helpmates: see letter of Belin & Kubista to Rodney Beard, the Defendants' attorney at the time, with a copy of the check attached hereto as Exhibit "2" and made a part hereof.

WHEREFORE, Volpe requests Your Honorable Court to modify the Order to be entered to provide that the issue regarding the five (5) hours may not be relitigated, that the "5 hour" provision may not be used to prove a violation of the contract, and that Volpe and his witness, David Hopkins, be authorized to testify as to their belief as to the contract in the

negotiations the parties had prior to the litigation referred to in Paragraph 3 of the Motion.

AND they will ever pray.

BELIN, KUBISTA & RYAN



Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

STEPHEN R. VOLPE :

-vs-

: No. 03 - 225 - CD

SWIFT, KENNEDY & ASSOCIATES, INC. :

ORDER

NOW, this 17th day of April, 2003, this being the day and date set for hearing into the above-captioned Petition for Injunctive Relief, it is the ORDER of this Court that full hearing on the underlying Complaint for Declaratory Judgment shall be heard by this Court on Wednesday, May 21, 2003, at 9:00 a.m. Pending said hearing and determination thereof, Plaintiff shall be required to work for Defendant on the basis of five hours a week with the Defendant to schedule said hours at Defendant's convenience. In the event that Defendant is successful in the Declaratory Judgment action, either Defendant or Helpmates, Inc. may petition the Court to off-set all or part of said compensation paid from date hereof to the date of the determination of the Declaratory Judgment action.

BY THE COURT,

/s/JOHN K. REILLY, JR.

Honorable John K. Reilly, Jr.
President Judge

FILED

APR 17 2003

William A. Shaw
Prothonotary

Exhibit "1"

BELIN & KUBISTA

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

CARL A. BELIN
1901-1997

AREA CODE 814
TELEPHONE 765-8972
FAX (814) 765-9893

CARL A. BELIN, JR.
KIMBERLY M. KUBISTA
JOHN R. RYAN

July 31, 2006

Rodney A Beard, P.C.
320 Rolling Ridge Drive, Suite A
Bellefonte, PA 16823

In re: Volpe v. Swift, Kennedy & Associates, Inc.
& Helpmates Inc. No. 03-1867 CD

Dear Rod:

Enclosed find check from Stephen Volpe for the amount due on the summary judgment.

After review of the matter with Stephen Volpe, the only way that I can see settling this matter would be along the lines of one of our previous proposals:

That Stephen Volpe be reemployed at an amount to be agreed upon, and that he concentrate on contacting clients that SKA has lost to recruit them to return to SKA, for which he would receive a commission along the lines of the original contract. As an employee, he could receive the hospitalization insurance until Medicare age. In this way, we could narrow the differences to make a settlement more likely.

Please review with your client to see if there is interest in this kind of a proposal. I would appreciate your response within several weeks.

Very truly yours,

BELIN & KUBISTA

Carl A. Belin, Jr.

CABjr:smh
Enclosure
cc: Mr. Stephen Volpe

Exhibit "2"

**S. R. VOLPE F.S.
STEPHEN R. VOLPE**
1011 E DUBOIS AVE
P.O. BOX 119
DUBOIS, PA 15801

COUNTY NATIONAL BANK
DUBOIS MALL
DUBOIS, PA 15801

60-827/313

5461

PAY TO THE
ORDER OF

7/28/2006

ROD BEARD ATTY FOR SKF AND HELPMATES INC

\$**7,068.00

Seven Thousand Sixty-Eight Only*****

CARL BELIN JR. ATTY
15 N. FRONT ST
P.O. BOX 1
CLEARFIELD, PA 16830

MEMO **RETURN OF INCOME**

DOLLARS
Security features
included
Details on back.



AUTHORIZED SIGNATURE

⑈00546⑈ ⑆031306278⑆ 1004747900⑈

MP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

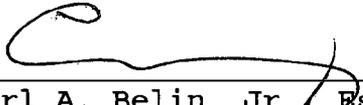
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has served a true and correct copy of Plaintiff's Answer to Defendants' Motion in Limine to Preclude Plaintiff from Presenting Evidence Contrary to Paragraph One of the April 30, 2002, Employment Agreement in the above-captioned matter to the following party by personal service on the 3rd day of May, 2007:

James M. Connelly, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801.

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr. Esq.
Attorney for Plaintiff

113

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE :
VS. : NO. 03-1867-CD
SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :

ORDER

AND NOW, this 3rd day of May, 2007, relative Plaintiff attempting to reraise the issue of Summary Judgment on the Counterclaim concerning the Defense allegations of bad mouthing and disparaging statements allegedly made by the Plaintiff concerning the company; Defense counsel has indicated that at this time the only witness they have available to testify to nonhearsay statements relative the bad mouthing is Larry Lecker. No deposition has been taken of Mr. Lecker and the Court does not believe that Defense counsel is in possession of any written statements from Mr. Lecker.

It is the ORDER of this Court that the Defense file an affidavit from Larry Lecker summarizing his testimony, with said affidavit to be filed with the record by no later than Thursday, May 10, 2007. A courtesy copy shall be provided by Defense counsel to the Court and to Plaintiff's counsel.

BY THE COURT,


President Judge

FILED 2cc
013:40/60
MAY 09 2007

Atty's: Belin
Weaver

(EK)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAY 09 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/9/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

ORIGINAL

FILED

MAY 23 2007

m/2306

William A. Shaw
Prothonotary/Clerk of Courts

LCERT to Appr

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

Defendants

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading: Defendants' Answer
to Plaintiff's Motion In Limine Re:
Edwin Rosenthol

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
James M. Connelly, Esquire
PA Supreme Court No. 42272
Mark S. Weaver, Esquire
PA Supreme Court No. 63044

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
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Telephone: (814) 237-6255
Facsimile: (814) 237-5752
Email: connelly@mazzalaw.com
weaver@mazzalaw.com

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

No. 03-1867-CD

**DEFENDANT'S ANSWER TO
PLAINTIFF'S MOTION IN LIMINE RE: EDWIN ROSENTHOL**

AND NOW COMES the Defendant, Swift, Kennedy & Associates, Inc., ("SKA") and Helpmates, Inc., ("Helpmates"), by their counsel, The Mazza Law Group, P.C., and files the following response to Plaintiff's Motion In Limine to preclude the testimony of Edwin Rosenthol, CPA, ("Rosenthol") at trial and avers as follows:

1. Denied as stated. Defendants admit only that Plaintiff has initiated this action for the claimed breach of several contracts and, while these contracts may be "interrelated," it is Defendants' position that the "sale of an insurance business known as SKA to Helpmates," stands alone from the employment contract and separate contracts/agreements outlining certain additional benefits to be provided Plaintiff, as long as his employment remained viable and active.

2. Denied as stated. Defendants admit only that the contracts do indeed include a stock sale agreement (changed to an "asset sale"), employment contract, and a separate contract as to certain benefits which would be provided Volpe during the duration of his post-sale of SKA employment, as well as a claim for casualty referral commissions on new business written by Volpe in the post-sale of SKA employment. Moreover, aside from the purchase of SKA by

Helpmates, all additional monies/benefits were due Volpe, as long as his employment with SKA remained viable.

3. Admitted.

4. Admitted.

ROSENTHOL REPORT I

5. Admitted.

6. Admitted in part/Denied in part. While Helpmates admits to negotiating the sale/purchase of SKA and further that, Helpmates rather than "SKA" has paid "Volpe all amounts due under the Stock Purchase Agreement," it is specifically denied that the parties "concluded the sale by the interrelated contracts..." By way of further answer, while Defendants concede that Section 25, "Other Agreements" of the Stock Purchase Agreement references the fact that "Buyer shall cause the company to enter into an employment agreement with Stephen R. Volpe, substantially upon the same terms and conditions as attached hereto as Exhibit E," neither the "Employment Agreement" nor any other agreement between Volpe and the Defendants was incorporated into the Stock Purchase Agreement. Defendants further deny that, "the only issues remaining are the construction of certain of the contracts." Also at issue is whether Volpe's termination from SKA employment was for just cause and, if not, then the valuation of any unpaid salary, health benefits, insurance referrals, and amounts claimed to be due for the change of the terms of the stock sale to one of an asset sale would be appropriately considered. Accordingly, the valuation of SKA at or around the time of sale is not only relevant but would further offer insight as to whether, in particular, the Employment Agreement ultimately entered into between Volpe and SKA was actually a part of Volpe's consideration in concluding the sale

of SKA to Helpmates or whether ancillary agreements, such as the Employment Agreement, were separate and apart from the sale/purchase of SKA.

7. Denied. It is specifically denied that the valuation of SKA is “irrelevant” and that admission of Rosenthol Report I would lead to confusion of the jury. To the contrary, Plaintiff has claimed that certain ancillary agreements following the sale/purchase of SKA were part of the consideration in selling SKA to Helpmates. Accordingly, Defendant SKA should be permitted to present Rosenthol’s valuation of the business at the time of sale/purchase in support of its position that, *inter alia*, the Employment Agreement was not a part of Plaintiff’s consideration in deciding whether to sell the SKA business to Helpmates, but rather a separate arrangement with independent terms and consideration.

8. Denied. It is denied that the case of *Shuey v. Rump*, 421 A.2d 324, 325 (Pa.Super 1980), is an analogous situation to the matter at hand. In *Shuey*, the court was confronted with a party’s effort to submit expert opinion as to a *quantum meruit* evaluation of work done on an “express contract.” In this matter, Defendants seek, through Rosenthol Report I, to support its position that ancillary agreements reached between the parties, in particular the Employment Agreement, were separate and apart from the purchase and not a condition precedent and/or consideration for Volpe when agreeing to sell SKA to Helpmates. Accordingly, Plaintiff’s reliance on *Shuey* is misplaced as the facts in this matter are clearly distinguishable.

ROSENTHOL REPORT II

9. Admitted.

10. Admitted in part/Denied in part. Defendants admit only that at issue in this matter is whether Volpe’s firing was justified based on his breach of the Employment Agreement. It is

specifically denied, however, that Volpe's "termination was pretextual because SKA did not want to be burdened with Volpe's employment contract."

11. Denied. It is specifically denied that SKA's termination of Volpe from its employ renders the impact of the separation on SKA thereafter irrelevant to the issues in this case. To the contrary, the financial impact from Volpe's failure to "devote his attention, skill and efforts to the performance of duties on behalf of the corporation" (Paragraph 1 of Employment Agreement) negatively impacted the business' earnings/growth following Helpmates' purchase of SKA from Volpe.

12. Denied. It is specifically denied that since Volpe was discharged on or about August 27, 2003, that the opinions of Rosenthol Report II regarding fiscal years 2004 and 2005 would be rendered irrelevant to the "present actions," given Defendants' Counterclaim for damages resulting from Volpe's failure to fulfill his obligations under the Employment Contract (See Defendant's Counterclaims, Count 1).

13. Denied. See Defendants' response to Paragraphs 11 and 12.

14. Admitted.

15. Denied. It is specifically denied that Rosenthol's opinions as to the rate of gross revenues growth following Volpe's decreased involvement with SKA and that the company's EBITDA percentages were at least 10 points less than that of the old company for the years 2004 and 2005 are "mere observations." To the contrary, as an expert, Rosenthol after reviewing all pertinent records/data, has reached conclusory opinions "with a reasonable degree of professional certainty," as to Volpe's impact during his brief tenure of employment with SKA following the sale/purchase and such is not only relevant, but properly admissible evidence in support of Defendants' Counterclaim, seeking damages resulting from Volpe's failure to fulfill

his obligations under the Employment Contract (Count I). (See Addendum Report of Edwin Rosenthol dated May 18, 2007, attached hereto as Exhibit "A.")

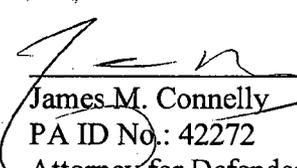
16. Denied. It is specifically denied that since this matter involves contracts that only the contractual terms are relevant and not "collateral issues." To the contrary, by virtue of Volpe's failure to honor the terms of his employment contract, i.e., by failing to "devote his attention, skill and efforts to the performance of duties on behalf of the corporation..." Defendants were adversely affected financially. Therefore, Rosenthol's opinions as regards failure of SKA to produce gross revenues at a rate equal to or better than pre-sale/purchase, is wholly relevant to not only Defendants' defenses to Volpe's claims but as regards Defendants' Counterclaims, in particular Count 1, which seeks damages from Volpe for his failure to fulfill his obligations under the Employment Agreement by failing "to devote his attention, skill and efforts to the performance of duties on behalf of the corporation..."

WHEREFORE, Defendants Swift Kennedy & Associates, Inc., and Helpmates, Inc., request Your Honorable Court to enter an Order denying Plaintiff's Motion to preclude Edwin Rosenthol, CPA, from testifying in this case as to Rosenthol I and II.

Respectfully submitted,

Date

5/02/07


James M. Connelly

PA ID No.: 42272

Attorney for Defendants, Swift Kennedy & Associates, Inc., and Helpmates, Inc.

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: connelly@mazzalaw.com

Edwin Rosenthol
Certified Public Accountant
Accredited in Business Valuation

30 S. 17th Street* Philadelphia, PA 19103-4196
Telephone 215-979-1634 * Fax 215-979-1626
E-mail Dwintax@AOL.com

May 18, 2007

Mark Weaver, Esq.
The Mazza Law Group, P.C.
Suite 302
1315 South Allen Street
State College, PA 16801

Re: Volpe v. Swift Kennedy

Dear Mr. Weaver:

In my letter report of March 7, 2007 I made the following statement:

Based upon my review of the financial information provided to me and the information provided by management I am able to make the following general statements.

1. Gross revenue grew at a much smaller rate in the initial years after Mr. Volpe decreased his involvement with Swift Kennedy.
2. Fiscal years 2004 and 2005 produced EBITDA percentages that were at least ten points less than the old company average.

These two general statements were opinions made with a reasonable degree of professional certainty.

Sincerely,



Edwin Rosenthol



IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the foregoing Defendants'

Answer to Plaintiff's Motion In Limine Re: Edwin Rosenthal was served on all parties of record

in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

Date

5/22/07

James M. Connelly

PA ID No.: 42272

Attorney for Defendants, Swift Kennedy &
Associates, Inc., and Helpmates, Inc.

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

State College, PA 16801-5923

Telephone: (814) 237-6255

Facsimile: (814) 237-5752

E-mail: connelly@mazzalaw.com

weaver@mazzalaw.com

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FILED

MAY 23 2007

M / 2:30 / W

William A. Shaw
Prothonotary/Clerk of Courts

1 CERT TO ATTY

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,

Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.

No. 03-1867-CD

Type of Case: CIVIL

Type of Pleading:
Defendants' Answer to Plaintiff's
Motion in Limine Re: Robert M.
Glus

Filed on Behalf of:
DEFENDANTS

Counsel of Record for:
DEFENDANTS

James M. Connelly, Esquire
PA Supreme Court No. 42272
Mark S. Weaver, Esquire
PA Supreme Court No. 63044

The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801
Telephone: (814) 237-6255

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT, KENNEDY & ASSOCIATES, INC.
and HELPMATES, INC.
Defendants

No. 03-1867-CD

**DEFENDANTS' ANSWER TO PLAINTIFF'S
MOTION IN LIMINE RE: ROBERT M. GLUS**

AND NOW comes the Defendants, Swift Kennedy & Associates ("SKA") and Helpmates, Inc. ("Helpmates") by their counsel, James M. Connelly, Esquire, of The Mazza Law Group, P.C. and files the following Answer to Plaintiff's Motion in Limine to preclude the testimony of Robert M. Glus ("Glus") at trial and in support thereof avers as follows:

1. Denied as stated. Defendants admit only that Plaintiff has initiated this action for the claimed breach of several contracts and while certain of these contracts may be "interrelated," it is Defendants position that the "sale of an insurance business known as SKA to Helpmates," stands alone from the employment contract and separate contract agreements outlining certain additional benefits to be provided Plaintiff, as long as his employment remained viable and active.

2. Denied as stated. Defendants admit only that the contracts do indeed include a stock sale agreement (later a changed to an "asset sale") an employment contract, a separate contract as to certain benefits which would be provided Volpe during the duration of his post-sale of SKA employment, as well as a claim for casualty referral commissions on new business written by Volpe in his post-sale of SKA employment. Moreover, aside from the purchase of SKA by

Helpmates, all additional monies/benefits were due Volpe, as long as his employment with SKA remained viable.

3. Denied as stated. While Defendants admit that an oral contract was entered into by and between Helpmates and Volpe as to changing the "stock purchase" to an "asset purchase," it specifically denied that, "the only issues remaining are the construction of the contracts by Your Honorable Court..." By way of further answer, Defendants contend that the respective performances of the parties under the contracts are at issue, as well as whether Volpe's discharge from SKA's employment was justified. The remaining allegations are denied.

4. Admitted.

5. Denied as stated. Defendants admit only that the Glus report provides present day valuation of health benefits provided Volpe while an employee of SKA, as well as present value of a replacement individual policy as, as closely analogous to the coverage provided Volpe at the time of his employment with SKA.

6. Denied as stated. Defendants admit only that the Glus report provides present day valuation of health benefits provided Volpe while an employee of SKA, as well as present value of a replacement individual policy as, as closely analogous to the coverage provided Volpe at the time of his employment with SKA.

7. Denied as stated. SKA admits only that since Volpe was terminated for cause from his employment with SKA, Volpe's health benefits were continued under the COBRA Laws, after which Volpe apparently secured comparable health benefits in the market place.

8. Denied. Defendants specifically deny that the value of the benefits provided by SKA is irrelevant. To the contrary, both Mr. Glus, as well as Mr. Hartz, Plaintiff's expert, provided evaluations of benefits which would have been paid to Volpe were his employment to have

continued with SKA. By way of further answer, proceeding with this initial valuation was necessary to provide both experts the opportunity to then provide cost valuation of coverage terms which were most closely analogous to SKA coverage.

9. Denied as stated. While Defendants admit that the “present value” of the benefits (are those benefits most closely analogous to the SKA coverage) is at issue and is provided in the Glus report, it is specifically denied however, that Volpe’s expert provided any “present value” evaluation.

10. Admitted in part/denied in part. Defendants admit only that this “action” is based upon, inter alia, a contract of employment and seeks to recover “the value of such [health] benefits agreed upon by the parties.” Defendants contend however, that Plaintiff was terminated for cause and therefore forfeited his right to “such benefits.”

11. Denied. In arriving at present day valuation of health benefits comparable to that which Volpe had enjoyed during his brief employment with SKA post sale of SKA to Helpmates, Glus utilized a “Classic Blue” type policy, just as did Plaintiff’s expert, William R. Hartz. Moreover, the “Keystone Select Blue” coverage which Volpe enjoyed while employed by SKA, was no longer available as of the date of Glus’ evaluation and therefore, like Plaintiff’s expert, Mr. Hartz, he found himself incapable of using the Keystone Select Blue coverages/costs in reaching his opinions in this matter.

12. Denied as stated. Defendants admit only that just as Plaintiff’s expert, William R. Hartz concluded, “providing a cost associated with benefit restriction is a difficult task,” (see page 2 of Hartz report of July 9, 2004 attached hereto as Exhibit “A”), Glus too was unable to determine or consider the “differences that exist between SKA benefit plan and the replacement individual policy.”

13. Denied as stated. It is specifically denied that Glus utilized the “value of premiums paid by Volpe,” rather Glus utilized the most comparable health benefits policy available, a “Classic Blue Traditional/100/major medical” policy to arrive at present day values for health insurance benefits to Volpe and his wife until age of medicare eligibility, which is exactly what Plaintiff’s expert William R. Hartz utilized. The primary difference in valuations between Plaintiff’s expert and Defendants’ expert involved the use of different “cost trend rates” (Plaintiff’s expert using rates of 10 to 15% and Defendants’ expert utilizing cost trend rates of 7 to 10%). Moreover, Plaintiff’s expert failed to reduce his calculations to present day value.

14. Denied. Defendants deny that the 1947 Pennsylvania Superior Court matter of *Snyder v. Markitell*, 52 A.2d 186 (Pa.Super. 1947), is “an analogous situation,” to this matter. In *Snyder* the court stated, “did the agreement provide for compensation to Plaintiff on a cost plus basis or a flat fee contract? That was the issue and the only issue in the case.” at 187. Therefore, Volpe’s reliance on *Snyder* is misplaced, in that *Snyder* dealt with a party’s attempt to offer “quantum meruit” values to attempt to revisit a contractor’s work (specifically services and product expended under the contract). In this matter however, the issue involves appropriate valuation of health benefits comparable to that enjoyed by Plaintiff during his brief tenure of employment with SKA, which specific benefits (Keystone Select Blue coverage) were no longer available upon expert evaluation, which then forced both Plaintiff and Defendants’ experts to utilize the most closely analogous coverage available on an individual replacement policy basis, rather than through group terms available through employers such as SKA.

15. Denied. It is specifically denied that the “opinion” rendered by Glus does not address the issue of the present value of the insurance benefit agreed upon by SKA in the “Exhibit A” contract. To the contrary, Glus utilized the only category of policies which would have been

comparable to Plaintiff's health insurance coverage enjoyed during his employment with SKA, with the application of different trend rates and reducing his calculations to present day value, unlike the calculations reached by Plaintiff's expert.

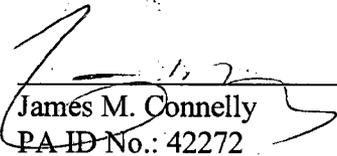
16. Denied. Neither Defendants' nor Plaintiff's expert was able to calculate the difference between the health coverage (specifically Keystone Select Blue coverage) then provided during SKA employment, as same did not exist as of either expert's evaluation, therefore both experts utilized the only comparable coverages available, a "Classic Blue" program. Therefore, Glus's opinions are not incompetent and would not "confuse the jury on this issue," rather Glus's opinions would be assistive to the jury in reaching an appropriate evaluation for health insurance which "shall be *equal or equivalent* to that which employee currently possess – Keystone Select Blue," as agreed to under "Exhibit A."

17. Denied as stated. In paragraph 7 of Plaintiff's Motion to preclude Glus's testimony Plaintiff insists that his termination by SKA, "has forced him to seek the health benefits agreed upon in the market place." Accordingly, Defendants contend that Volpe did not choose a "less expensive policy," but rather chose the most comparable coverage that he could locate for he and his wife. However, Defendants contend that irrespective of the cost of Volpe's alternative coverage, Glus, as did Plaintiff's expert, utilized the most analogous coverage available through an individual policy at the time, and thereafter reduced his evaluations to the present day value of Volpe's health coverage claim.

WHEREFORE, Swift Kennedy & Associates, Inc. and Helpmates, Inc. request Your Honorable Court to deny Plaintiff's Request to Preclude Robert M. Glus testifying in this case as to his report dated March 6, 2007.

Date

5/22/07


James M. Connelly

PA ID No.: 42272

The Mazza Law Group, P.C.

1315 South Allen Street, Suite 302

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hartz

consulting group, inc.

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412-325-1699 • 412-291-1204 fax
www.hartz-group.com

July 9, 2004

Mr. Carl A. Belin, Jr.
Belin & Kubista
Attorneys At Law
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

RE: Stephen R. Volpe

Dear Mr. Belin:

In response to your letter dated June 2, 2004, I have reviewed individual health insurance quotes for Mr. Volpe and his spouse, as well as estimating the total costs for maintaining the existing coverage through SKA.

Your first request is that "you assume that Mr. Volpe would continue to work for SKA as an employee until he reached the age for Medicare Coverage and until his wife reached the age for her Medicare coverage...and assume that they would be covered with equivalent health care insurance by SKA until they reached the appropriate age for Medicare coverage". I have assumed that the current SKA health care costs (\$623.64) remain until the renewal date of January 1, 2005. From that, I have utilized industry trend factors of 10% and 15% for future renewals through January 2012. Using these trend factors of 10% and 15%, and continuing coverage until Mr. Volpe reaches age 65, the costs range from \$83,177.51 to \$100,893.01 respectively. To continue Single coverage for an additional 15 months (until Mrs. Volpe reaches age 65) would add approximately \$8,951 - \$12,939.

The second request is that "you determine the total future cost of providing that insurance [current coverage] for the period from the expiration of the Cobra coverage [6/1/05] to the age for Medicare coverage". Highmark Blue Cross Blue Shield currently offers an array of individual policies. They do not currently offer a Keystone SelectBlue program. However, they do offer a Preferred Blue program that provides coverage at an 80% coinsurance level (in-network) after a \$500 deductible, without medical underwriting. This program, however, has a pre-existing condition limitation that would not provide benefits during the first 12 months of coverage under these programs for any condition, illness or injury for which a physician gave treatment or advice during the five-year period before the effective date.

The only Individual products that Highmark offers that do not have this pre-existing condition exclusion and are not medically underwritten (they are HIPAA compliant) are the ClassicBlue



Mr. Carl A. Belin, Jr.

July 9, 2004

Page Two

programs. The most comprehensive plan design available has benefit restrictions that do not match the current High Option SelectBlue program. I am attaching the summary of benefits for this plan. The current cost (for a Husband and Wife policy) is \$1,083.55 per month. Using the same industry trend factors as noted above, the total costs from 6/1/2005 through 1/31/2012 would be \$132,056.84 to \$162,565.93. Providing a cost associated with the benefit restrictions is a difficult task. The plan cannot be enhanced to match the current program; therefore, the only way to match the benefits would be to provide them to Mr. Volpe on an "extra-contractual" basis. We have highlighted the differences on the attached benefit grid. The cost of reimbursing the deductibles would be relatively small, however, the \$25,000 Major Medical annual maximum and the \$250,000 lifetime maximum could create a significant liability. Since the former High Option Select Blue program does not have these limitations, any eligible expense above the maximum would be Mr. Volpe's liability. The majority of expenses under this benefit would be costs associated with prescription drugs, office visits, durable medical equipment, therapy services over the Blue Shield limits, etc.

Enclosed you will find information on my industry experience. Please feel free to contact me with any questions.

Sincerely,



William R. Hartz
Chief Executive Officer

Enclosure



Please Note:

These rates are subject to change at any time. In addition, premiums are calculated according to the information that you have entered, and any change in this information may result in a change in premium. Some plans are subject to standard medical underwriting procedures, and acceptance is not guaranteed. Do not cancel any current health insurance coverage in reliance on this information. The information displayed here represents only a portion of the actual provisions of the coverages mentioned. This document is not a contract. The complete terms, provisions and conditions concerning the discussed coverages are described in the actual policy. Please contact us for specific requirements.

Plan	Coverage Categories Premium Per Month					
	Individual	Parent and Child	Parent and Children	Husband and Wife	Husband Wife Child	Husband Wife Children
ClassicBlue Traditional/100/ Major Medical - HIPAA	\$533.30	\$893.50	\$941.00	\$1,083.55	\$1,131.05	\$1,131.05
PreferredBlue, An Individual Preferred-Provider Program: \$500 Deductible	\$396.60	\$590.95	\$785.30	\$793.20	\$987.55	\$1,181.90

Services	ClassicBlue Traditional/100/ Major Medical - HIPAA	PreferredBlue, An Individual Preferred- Provider Program: \$500 Deductible	
		In-Network	Out-of-Network
Deductible-Individual	Major Medical only - \$750	\$500	\$1,000
Deductible-Family	Major Medical only - \$750/person with maximum of \$2,250	\$500/person with a maximum of \$1,500	\$1,000/person with a maximum of \$3,000
Out of Pocket Maximum - Individual	Not Applicable	\$2,500 for network covered services	\$5,000 for out-of-network covered services
Out of Pocket Maximum - Family	Not Applicable	\$7,500 for network covered services	\$15,000 for out-of-network covered services
Coinsurance (only applied after any applicable calendar year deductibles have been met)	Major Medical only - 80% after deductible	80%	70%
Lifetime Policy Maximum	Major Medical - \$250,000 lifetime includes \$25,000 maximum for Mental Health and Substance Abuse Services	\$2,000,000 - includes out-of-network payments	\$300,000 - included as part of network maximum
Hospital Facility Expense - Inpatient (includes Maternity)	100% after \$100/day copayment for first six days, Maximum 120 days/benefit period	80%	70% Limited to 90 days/benefit period
Emergency Room Care	100%	80% after \$40 copayment (waived if admitted)	80% after \$40 copayment (waived if admitted)
Office/Home Visits	Covered under Major Medical - 20% copay after deductible is met	80%	70%
Medical / Surgical Expenses (except office visits)	100%	80%	70%
Preventive Care	Routine Mammogram - 100% after deductible;	Routine mammogram - 80% after deductible	None

	Gynecological Exam and Pap Test: Deductible does not apply - 100%; Pediatric Immunizations: Deductible does not apply - 100%	Gynecological exam and Pap test: Deductible does not apply - 80%; Pediatric immunizations: Deductible does not apply - 80%	
Diagnostic Services (X-ray, Lab and other tests)	100%	80%	70%
Mental Health Services	Inpatient: 30 days/calendar year apply toward maximum 120 inpatient days/benefit period - 100%; Outpatient: 50% under Major Medical only with \$25,000 maximum.	Not Covered	Not Covered
Alcohol/Drug	Rehabilitation: Inpatient: 30 days/admission; lifetime maximum of 2 admissions - 100%; Outpatient: Can. exchange 1 inpatient day for 2 outpatient visits up to 120 visits/lifetime - 100% with calendar year maximum \$1,500 Detoxification: Inpatient: 7 days/admission, lifetime maximum of 2 admissions - 100%	Not Covered	Not Covered
Prescription Drug	Major Medical only - 80% copay after deductible	\$50 deductible/year, \$10 generic, \$20 brand. Once \$3,000 prescription drug out-of-pocket maximum is met, covered up to 100% for remainder of period.	None
Healthy Lifestyle - Lifestyle Improvement Classes	Covered	Covered	Covered
- Discounts on Health-Related Products & Services			
Blues On Call - Health Information and Support Toll-Free Hotline	Covered	Covered	Covered
	 Apply Now!	 Apply Now!	

For HIPAA eligible individuals: Health care coverage options that cover pre-existing conditions are available to individuals who meet the eligibility requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. If you live in the 29 counties of Western Pennsylvania served by Highmark Blue Cross Blue Shield and meet the following guidelines, you may be eligible to purchase either ClassicBlue Traditional Hospital and Plan 100 Medical/Surgical with Major Medical coverage or ClassicBlue Traditional Hospital and Plan 100 Medical/Surgical (no Major Medical benefits). To be HIPAA eligible: * You must have a minimum of 18 months of prior creditable health care coverage (with no breaks in coverage of more than 63 days each) and your last coverage was provided through a group, governmental or church plan. *You must submit your completed application to Highmark Blue Cross Blue Shield within 63 days from the date that your most recent insurance coverage ended. *You must have used all of the "COBRA" benefits available to you through your former employer. * You are not eligible for or enrolled in Medicare, Medicaid or any other group, governmental or church health insurance plan. * You do not have any other health insurance coverage. If you would like more information about HIPAA, call our Member Service Department at 1-800-544-6679.

ClassicBlue Traditional - Health Coverage Tax Credit Program: The Health Coverage Tax Credit (HCTC) program, developed under the federal Trade Act of 2002, assists displaced workers receiving Trade Adjustment Assistance (TAA) benefits and individuals receiving Pension Benefit Guaranty Corporation (PBGC) benefits with the purchase of private health insurance. The HCTC is a tax credit that covers 65 percent of the premium paid by eligible individuals for qualified health insurance coverage. If you live in the 29 counties of Western Pennsylvania, you may be eligible to

enroll in either ClassicBlue Traditional Hospital and Plan 100 Medical/Surgical with Major Medical coverage or ClassicBlue Traditional Hospital and Plan 100 Medical/Surgical (no Major Medical benefits). In order to have the pre-existing condition limitation waived, you must have three months of prior creditable coverage and return your application within 63 days from the date that your prior creditable coverage ended. For more information about proof of creditable coverage, see Section 4, Question 4 on the application. If you do not meet the requirements for waiving the pre-existing condition, you are still eligible to enroll, but a waiting period of one year will be imposed before benefits will be paid for any pre-existing condition. You are responsible for contacting the HCTC hotline to determine if you are eligible for the HCTC program. For complete information about eligibility, call toll free Monday through Friday, between 8:00 a.m. and 8:00 p.m. - 1-866-628-HCTC (1-866-628-4282). Hearing impaired TTY users, call 1-866-626-4282. You can also visit the HCTC Web site at www.irs.gov/individuals/index.html and choose "Health Coverage Tax Credit".

ClassicBlue Traditional: The Major Medical component of this plan (if purchased) as well as the hospital component will not pay benefits during the first 12 months of coverage for a condition, illness, or injury for which a physician rendered treatment or advice within a **five-year period** prior to the effective date of the Agreement. The Medical-Surgical portion of this Agreement will not pay benefits during the first 12 months of coverage for a condition, illness, or injury for which a physician provided treatment or advice within the **12-month period** prior to the effective date of the Agreement.

SpecialCare: This program is available only to residents of Western Pennsylvania who are not enrolled for any private or governmental group or individual health care plan or program as of the effective date of coverage. This coverage will not pay benefits during the first 12 months of coverage for any condition, illness or injury for which a physician rendered treatment or advice within a 12-month period prior to the effective date of the Agreement.

CompleteCare: Acceptance for CompleteCare coverage is determined by an evaluation of your medical history and other health information, as well as that of each dependent you wish to enroll. As a result, we cannot guarantee acceptance for CompleteCare. CompleteCare includes a pre-existing condition clause. For the first 12 months of your coverage, the CompleteCare Agreement will not pay for expenses related to a condition for which you or your enrolled dependents received medical attention during the five years before you enrolled.

KeystoneBlue: In order to provide health insurance at the lowest possible price, an evaluation of your and your dependents' medical history and other health information will be required before acceptance. You're covered from the very first day - even for pre-existing health conditions.
This managed care plan may not cover all your health care expenses, read your contract carefully to determine which health care services are covered.

DirectBlue: This Preferred-Provider program utilizes the Keystone Health Plan West network of providers. Acceptance for DirectBlue coverage is determined by an evaluation of your medical history and other health information, as well as that of each dependent you wish to enroll. As a result, we cannot guarantee acceptance for DirectBlue. DirectBlue includes a pre-existing condition clause. For the first 12 months of your coverage, the DirectBlue Agreement will not pay for expenses related to a condition for which you or your enrolled dependents received medical attention during the five years before you enrolled.

PreferredBlue: This Preferred Provider Program utilizes the PreferredBlue network of providers. PreferredBlue includes a pre-existing condition clause. For the first 12 months of your coverage, the PreferredBlue Agreement will not pay for expenses related to a condition for which you or your enrolled dependents received medical attention during the five years before you enrolled.

William R. Hartz
Chief Executive Officer

Bill Hartz received a B.S. Degree in Math and Computer Science from Allegheny College in 1979.

He started his career as a Systems Analyst with a computer consulting firm in Columbus, Ohio. He entered the Insurance Brokerage and Consulting field with The Equitable Life Assurance Society's Pittsburgh Office. Two and one-half years were then spent as an Employee Benefit Consultant for Johnson & Higgins of Pennsylvania. In 1986, Mr. Hartz became Senior Account Supervisor of CIGNA's Group Pension Department, where he successfully developed and serviced a large number of pension clients.

Mr. Hartz joined The HDH Group, Inc. in 1988 and used his employee benefit expertise to develop and manage in excess of 100 clients. In addition to having developed a proficiency in multiple areas of employee benefit coverages, he specialized in negotiating and structuring complex Blue Cross and Blue Shield programs. Not only does this include individual employer programs but consortiums and Healthcare Alliance/Association marketing as well. In January 1996, Bill was promoted to Manager, Employee Benefits Department. His responsibilities were expanded to not only include the management of his client base, but also the responsibility of the continued growth of the Benefits Department. In his 11 years with HDH, Bill contributed heavily to the growth of the Benefits Department, through both individual production and department management. Since his beginning with HDH, the Benefits Department grew from \$700,000 to \$4.5 million in annual revenues. Bill was also promoted to Executive Vice President and named to the Board of Directors of HDH. His responsibilities were expanded to include the expansion of HDH business throughout the State of Pennsylvania through new business development, mergers and acquisitions.

In May of 1999, Bill formed the *hartz consulting group, llc (hcg)*. Located in Pittsburgh, *hcg* continues the excellent foundation developed over the past 20 years. Specializing in both Property & Casualty and Employee Benefits, *hcg* focuses its activities on employee benefits plan consulting and brokerage services, consortium formation and management, association marketing, and internet/electronic applications for employee benefit programs, and extensive Property & Casualty consulting and brokerage with emphasis on electronic interface and hands-on servicing and client interaction.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

v.

No. 03-1867-CD

SWIFT KENNEDY & ASSOCIATES, INC. :
and HELPMATES, INC. :
Defendants :

CERTIFICATE OF SERVICE

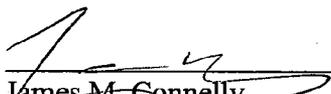
I hereby certify that on this day, a true and correct copy of the foregoing Defendants' Answer to Plaintiff's Motion In Limine Re: Robert M. Glus was served on all parties of record in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830

Date

5/22/07


James M. Connelly
PA ID No.: 42272

Attorney for Defendants, Swift Kennedy &
Associates, Inc., and Helpmates, Inc.
The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801-5923
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
E-mail: connelly@mazzalaw.com
weaver@mazzalaw.com

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

No. 03-1867-CD

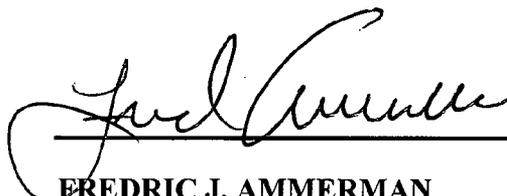
v.

SWIFT KENNEDY & ASSOCIATES,
INC., and HELPMATES, INC.
Defendants

ORDER

NOW, this 5th day of June, 2007, after consideration of Plaintiff's Supplemental Brief on Summary Judgment, Plaintiff's request to have this Court reconsider the Summary Judgment Order of May 24, 2006 is HEREBY DENIED. "Except as otherwise provided or prescribed by law, a court upon notice to the parties may modify or rescind any order within 30 days after its entry, notwithstanding the prior termination of any term of court, if no appeal from such order has been taken or allowed." 42 Pa.C.S. 5505. Here, the Plaintiff's request to have the Court reconsider its Order of May 24, 2006 was not made until April 25, 2007, nearly a year after the original Order was issued by this Court. Therefore, as Plaintiff's Motion to Reconsider was not timely filed, the Court must deny Plaintiff's request.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED 2007: *cc*
0/9.20 am Belin
JUN 06 2007 m. weaver

William A. Shaw
Prothonotary/Clerk of Courts

CA

DATE: 6-6-2007

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED

JUN 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

No. 03-1867-CD

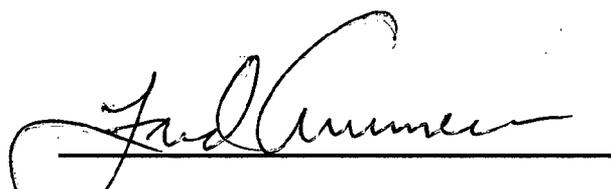
v.

SWIFT KENNEDY & ASSOCIATES,
INC., and HELPMATES, INC.
Defendants

ORDER

NOW, this 6th day of June, 2007, after consideration of the Plaintiff's Motion in Limine re: Robert M. Glus it is the Order of this Court that said motion be and is HEREBY DENIED. As the "Keystone Select Blue" coverage is no longer available, it would be impossible to present evidence as to the cost to continue those health benefits. Therefore, Glus will be permitted to testify as to his report dated March 6, 2007.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

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Atty: Belin
Weaver
ER

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUN 08 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/8/07

____ You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) Plaintiff(s) Attorney ____ Other

____ Defendant(s) Defendant(s) Attorney

____ Special Instructions:

18

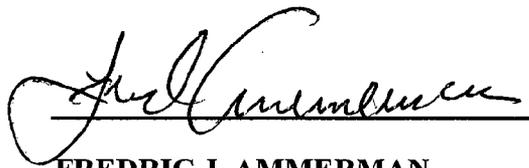
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,	:	
Plaintiff	:	No. 03-1867-CD
	:	
v.	:	
	:	
SWIFT KENNEDY & ASSOCIATES,	:	
INC., and HELPMATES, INC.	:	
Defendants	:	

ORDER

NOW, this 11th day of June, 2007, after consideration of the Defendants' Motion in Limine to Preclude Evidence Re: Paragraph No. 1 of Employment Agreement, it is the Order of this Court that said motion be and is HEREBY DENIED. Plaintiff will be able to testify as to the fact that the April 30, 2002 Employment Agreement (hereafter Agreement) did not set maximum hours. Further, Plaintiff can present evidence that there was a Court Order dated April 17, 2003 that required Plaintiff to work a total five hours per week. However, Plaintiff will not be permitted to present evidence at time of Trial to the effect that the language in the Agreement required him to work at most five hours per week. This determination is made consistent with the Court's Opinion and Order of July 9, 2003 filed to No. 03-225-CD and the Superior Court's Memorandum of November 22, 2004 filed to No. 423 WDA 2004.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

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01942/07
JUN 11 2007

William A. Shaw
Prothonotary/Clerk of Courts (GW)

ICC
Atty's:
Belin
Weaver

FILED

JUN 11 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/11/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE,
Plaintiff

v.

SWIFT KENNEDY & ASSOCIATES,
INC., and HELPMATES, INC.
Defendants

No. 03-1867-CD

FILED

JUN 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

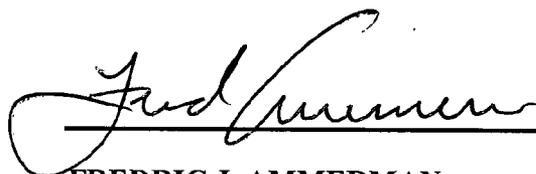
NOW, this 20th day of June, 2007, after consideration of the Plaintiff's Motion in Limine re: Edwin Rosenthol it is the Order of this Court that said motion be and is HEREBY GRANTED with respect to Rosenthol Report I. The Valuations contained in Rosenthol Report I are not relevant to the issues in the case. The issue before the Court relates to the construction of the Stock Purchase Agreement and the Employment Agreement. In *Henry v. First Federal Savings & Loan Association* the Court stated "The interpretation of the construction loan agreement is a question of law for the court." *Henry v. First Federal Savings & Loan Association*, 459 A.2d 772, 775 (Pa.Super. 1983). The Court will be able to examine the language of both the Stock Purchase Agreement and the Employment Agreement to determine the issue of interrelation of those contracts. Therefore, it would lead to confusion if Defendants were permitted to give testimony as to their estimate of the worth of the company when it was sold.

With respect to Rosenthol Report II it is the Order of this Court that said Motion be and is HEREBY DENIED. However, Rosenthol will not be permitted to testify as to Swift Kennedy & Associates financial records or status from the period after the Plaintiff was formally

discharged, as this testimony would not be relevant and could lead to confusion of the jurors.

Therefore, Rosenthal will be permitted to testify as to his review/analysis of the financial records up to October 7, 2003, the date that Plaintiff was formally discharged.

BY THE COURT:

A handwritten signature in cursive script, reading "Fred Ammerman", is written over a solid horizontal line.

FREDRIC J. AMMERMAN

President Judge

DATE: 6-20-07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED
 JUN 20 2007
 William A. Shaw
 Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

STEPHEN R. VOLPE,
Plaintiff

vs.

SWIFT KENNEDY & ASSOCIATES, INC.
AND HELPMATES, INC.,
Defendants

:
:
: No. 03 - 1867 - CD
:
: JURY TRIAL DEMANDED
:
: CERTIFICATE OF SERVICE
:
:

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

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JUN 25 2007

William A. Shaw
Prothonotary/Clerk of Courts

Discovered in file on
6-25-2007 not deleted
until 6-25-07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

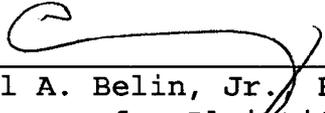
STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Plaintiff's Brief in support of motions in limine and Supplemental Brief on Summary Judgment in the above-captioned matter to the following party by postage prepaid United States first class mail on the 25th day of April, 2007:

Mark S. Weaver, Esquire
James M. Connelly, Esquire
The Mazza Law Group, P.C.
1315 South Allen Street
Suite 302
State College, PA 16801.

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr. Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE, :
Plaintiff :
 : No. 03 - 1867 - CD
vs. :
 : JURY TRIAL DEMANDED
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., :
Defendants : JOINT STIPULATION
FOR DISCONTINUANCE

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN, KUBISTA & RYAN
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

On behalf of the Defendant:

James M. Connelly, Esquire
PA I.D. #42272

The Mazza Law Group, P.C.
1315 S. Allen St. Suite 302
State College, PA 16801

(814) 237-6255

FILED

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JUL 19 2007

2 CC TO ATTY

William A. Shaw
Prothonotary/Clerk of Courts

GP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHEN R. VOLPE, :
Plaintiff :
vs. : No. 03 - 1867 - CD
SWIFT KENNEDY & ASSOCIATES, INC. :
AND HELPMATES, INC., : JURY TRIAL DEMANDED
Defendants :

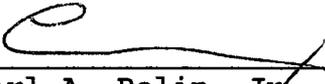
STIPULATION FOR DISCONTINUANCE

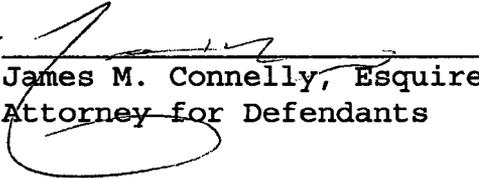
TO THE PROTHONOTARY:

Upon stipulation of counsel for Plaintiff and Defendants,
please mark the above action, including complaint and
counterclaim, settled, discontinued and ended.

BELIN, KUBISTA & RYAN

THE MAZZA LAW GROUP, P.C.

By 
Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

By 
James M. Connelly, Esquire
Attorney for Defendants

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

COPY

Stephen R. Volpe

Vs.

No. 2003-01867-CD

**Swift Kennedy and Associates, Inc.
Helpmates, Inc.**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on the 19th Day of July, 2007, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$85.00 have been paid in full by Carl Belin, Esquire .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 19th day of July A.D. 2007.

William A. Shaw, Prothonotary