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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91187381
Party	Defendant Rodeo Equities Inc.
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Date	11/16/2009
Attachments	Answer.pdf ( 7 pages )(919116 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Shan O'Shay Nutraceuticals, LLC  
Opposer,

v.

Rodeo Equities, Inc.  
Applicant,

Opposition No. 91187381

**ANSWER**

Applicant lacks information sufficient to form a belief as to the truth of the statements in Opposer's introductory paragraph, and on that basis denies those statements.

1. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 1 of the Notice, and, therefore denies each and every such allegation.
2. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 2 of the Notice, and, therefore denies each and every such allegation.
3. Applicant denies the allegations set forth in ¶ 3 of the Notice.
4. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 4 of the Notice, and, therefore denies each and every such allegation.
5. Applicant admits the allegations set forth in ¶ 5 of the Notice.

6. Applicant admits the allegations set forth in ¶ 6 of the Notice.
7. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 7 of the Notice, and, therefore denies each and every such allegation.
8. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 8 of the Notice, and, therefore denies each and every such allegation.
9. Applicant denies the allegations set forth in ¶ 9 of the Notice.
10. Applicant denies the allegations set forth in ¶ 10 of the Notice.
11. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 11 of the Notice, and, therefore denies each and every such allegation.
12. Applicant denies the allegations set forth in ¶ 12 of the Notice.
13. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 13 of the Notice, and, therefore denies each and every such allegation.
14. Applicant denies the allegations set forth in ¶ 4 of the Notice.
15. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 15 of the Notice, and, therefore denies each and every such allegation.
16. Applicant denies the allegations set forth in ¶ 16 of the Notice.
17. Applicant denies the allegations set forth in ¶ 17 of the Notice.

## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the doctrine of acquiescence.

### **Second Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the fact that no actual confusion regarding the marks at issue has ever occurred and Opposer has not produced any actual confusion or survey evidence to the contrary.

### **Third Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the fact that Applicant adopted and used its mark in good faith and never with intent to confuse or deceive.

### **Forth Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the fact that Applicant has neither traded on the Opposer's goodwill nor otherwise infringed upon Opposer's rights willfully or wantonly.

### **Fifth Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the doctrine of estoppel.

### **Sixth Affirmative Defense**

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the doctrine of waiver.

Seventh Affirmative Defense

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the doctrine of unclean hands.

Eighth Affirmative Defense

The purported Claim for Relief in Opposer's Notice of Opposition is barred because Oppose has abandoned its right, if any, in Opposer's mark.

Ninth Affirmative Defense

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the doctrine of fraud, based on Opposer's fraudulent registration and maintenance of Opposer's registration.

Tenth Affirmative Defense

The purported Claim for Relief in Opposer's Notice of Opposition is barred by the fact that Opposer's Mark is descriptive and has not acquired secondary meaning.

Eleventh Affirmative Defense

Applicant reserves its right to assert additional affirmative defenses in the event that discovery and/or investigation indicates that additional affirmative defenses are applicable.

RESERVATION OF COUNTERCLAIMS

Applicant reserves the right to amend this Answer pursuant to Fed. R. Civ. P. 15(a) and/or 15(b), to assert counterclaims in grounds for counterclaims are learned during the course of the proceeding..

WHEREFORE, this Applicant respectfully requests that Opposition No. 91,187,381 be dismissed and that registration be granted to Application Serial No. 78/837,003.

Dated: November 16, 2009

Respectfully submitted  
AMIN TALATI, LLC

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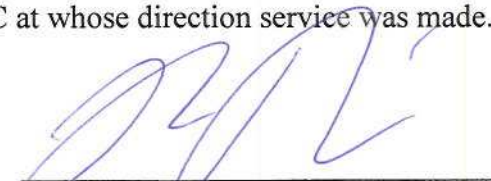
**CERTIFICATE OF SERVICE**

I am over the age of 18 and not a party to the within action; my business address is Amin Talati, LLC, 217 North Jefferson Street, Suite 100, Chicago, IL 60661. On **November 16, 2009**, a copy of the attached **ANSWER TO OPPOSITION NUMBER 91,187,381** was served on all interested parties in this action via U.S. Mail, postage prepaid, at the addresses as follows:

To: R. Bennett Ford, Jr.  
ROY, KIESEL, KEEGAN, & DENICOLA, PLC  
P.O. Box 15928  
2355 Drusilla Lane  
Baton Rouge, Louisiana 70895-5928

Executed on **November 16, 2009**, at Chicago, Illinois.

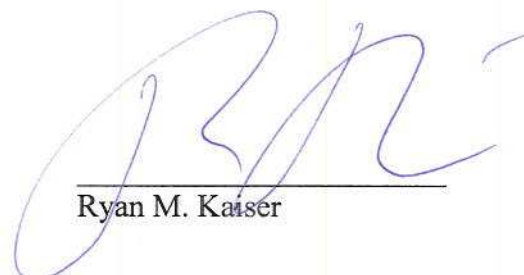
I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of Amin Talati, LLC at whose direction service was made.

  
\_\_\_\_\_  
Ryan M. Kaiser

**CERTIFICATE OF TRANSMISSION**

I, Ryan Kaiser, hereby certify that the forgoing **ANSWER TO OPPOSITION NUMBER 91,187,381** is being electronically transmitted to the United States Patent and Trademark Office today, November 16, 2009.

Dated: November 16, 2009



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Ryan M. Kaiser