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**COPY**  
*entered*

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
IN AND FOR UTAH COUNTY, STATE OF UTAH

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GREG KERSTEN, an individual, GREG  
KERSTEN d/b/a EQUINE SERVICES,  
EQUINE SERVICES, INC., a Utah  
corporation, and JENNIFER KERSTEN,

Plaintiffs,

vs.

EQUINE ASSISTED GROWTH AND  
LEARNING ASSOCIATION, INC., a Utah  
non-profit corporation, LYNN THOMAS,  
TIM JOBE, DAVID CURRIE, LISA  
ROSKENS, MICKEY DIGIACOMO, AMY  
BLOSSOM, BARBARA SCOTT, DAVID  
TIDMARSH and RHONDA SMITH,

Defendants.

**DEFENDANTS' FIRST SET OF  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS  
TO GREG KERSTEN**

Civil No. 070401941

Judge Darold McDade

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Pursuant to Rule 33 of the Utah Rules of Civil Procedure, Defendants, by and  
through its counsel of record Mark L. McCarty and Zachary E. Peterson of RICHARDS

BRANDT MILLER NELSON, submits the following Interrogatories to Greg Kersten, to be answered upon oath and in writing within thirty (30) days of service hereof. These Interrogatories are intended to be continuing so as to require supplemental responses to the full extent specified in Rule 26(e) of the Utah Rules of Civil Procedure.

### DEFINITIONS

1. The term "identify" when used in reference to an individual person means to state his full name and present address, his present or last known position and business affiliation, and his position and business affiliation at the time in question. "Identify" when used in reference to a business organization or agency means to state its full name, its principal business address, and the nature of the organization, if known (e.g., corporation, partnership, non-profit, state or federal government, etc.). "Identify" when used in reference to a document, means to state the date, author, addressee, and type of document (e.g., letter memoranda, telegram, etc.) or some other means of identifying it, its substance, and its present location or custodian. If any such document was, but is no longer, in your possession or subject to your control or custody, state what disposition was made of it. "Identify" when used in reference to an oral communication means to state exactly what was said, when, where, by whom, and to whom.

2. As used herein, the word "including" means including, but not limited to.

3. As used herein, the word "describe" means comprehensive, full, fair, frank, complete, accurate and detailed description of the matter inquired of.

4. Wherever the word "document" is used in these Interrogatories, it is intended to include any kind of written, typewritten, or printed or recorded material whatsoever, including, but without limitation, notes transcriptions, agreements, pictures, blueprints, schematics, transcription of recordings, computer disks, e-mails, video recordings or videotapes, log books and business records.

5. If you will do so without a separately filed Request for Production, please append a copy of any document referred to in Answers to these Interrogatories. If you refuse to do so, with respect to each such document, provide the following information relative to each document.

- a. The identity of a document, including, if appropriate, its date, author, recipient and general subject matter.
- b. The names and address of all persons who received or possessed copies of the document.
- c. The present location of the document.
- d. The present custodian of the document.

#### **INSTRUCTIONS**

1. In answering these Interrogatories, you must furnish all information which is available to you, including without limitation, information in the possession of your agents, employees, attorneys, investigators for your attorneys, and others over whom you exercise

control, not merely information known to the person or persons who answer these Interrogatories.

2. If any document to be identified is one for which you claim a privilege, state:

- a. The name of the person who prepared the document;
- b. The name of the person who signed the document or in whose name it was issued;
- c. The name of each person to whom the document was addressed or circulated;
- d. The title and nature of the writing;
- e. The date of the document and, if it bears no date, the date when it was prepared;
- f. The physical location of the original and any copies of which you are aware, the name and address of each person having custody or control of the document, and the name and number of the file, if any, in which it is contained; and
- g. The basis for the privilege which you claim, in sufficient detail to enable the Court to rule on the adequacy of the asserted privilege.

3. If you contend that the Answer to any other Interrogatory is privileged, in whole or in part, or otherwise object to any part of any Interrogatory herein, state the reasons for

such objection or grounds for exclusion and identify each person having knowledge of the factual basis, if any, on which the privilege or other ground is asserted.

### **INTERROGATORIES**

INTERROGATORY NO. 1: In paragraph 35 of the Complaint, you state that you entered into an employment agreement with EAGALA which was oral. Please state your understanding of the terms of this employment agreement and identify any documents that are relevant to the existence of the employment agreement and its terms.

INTERROGATORY NO. 2: With respect to the employment agreement identified in paragraph 35 of the Complaint, please identify each person who would have knowledge of the existence of the employment agreement and its terms and any meetings or communications, written or oral, with respect to this employment agreement.

INTERROGATORY NO. 3: In paragraph 38 of the Complaint, you indicate that you own certain intellectual property which was used by EAGALA under a license, please identify all documents relevant to the existence of a license and identify the terms of the license agreement between EAGALA and you.

INTERROGATORY NO. 4: With the respect to the intellectual property identified in paragraph 38, please identify all of the intellectual property which was used by EAGALA and owned by you.

INTERROGATORY NO. 5: With respect to the intellectual property identified in paragraph 38, please identify each witness who would have information concerning the use of

the intellectual property by EAGALA, the license agreement, or any other information with respect to the intellectual property identified in paragraph 38.

INTERROGATORY NO. 6: In paragraph 65 of the Complaint, you allege that defendants have defamed you by publishing false and defamatory information about your conduct, fitness, and alleged criminal conduct. Please identify each allegedly defamatory remark, communication, or statement, whether the allegedly defamatory remark was written or oral, the person making the defamatory remark, the date on which the remark was made, where the remark was made, and all persons who received, heard, or were aware of the defamatory remark.

INTERROGATORY NO. 7: In paragraph 66 of the Complaint, you indicate that you notified EAGALA that you had no longer permitted it to use your intellectual property and demanded that EAGALA discontinue its use, please identify all documents relevant to this allegation and identify any oral or written communications you made regarding this allegation, including the date on which the communication was made, the person to whom the communication was made, and the nature of the communication.

INTERROGATORY NO. 8: In paragraph 68 of the Complaint, you allege that defendant David Tidmarsh has converted the intellectual property for his own personal use. Please identify which intellectual property Mr. Tidmarsh has converted for his own use, when he converted it, and how you became aware that Mr. Tidmarsh has converted the intellectual property for his own use.

## **REQUEST FOR PRODUCTION OF DOCUMENTS**

REQUEST NO. 1: Please produce each and every document which you identified in responding to the first set of interrogatories.

REQUEST NO. 2: Please produce all documents on which you relied in answering the first set of interrogatories.

REQUEST NO. 3: Please produce all emails between you and any of the defendants in this case.

REQUEST NO. 4: Please produce all written communications, including emails, which are related to your claims in this case.

REQUEST NO. 5: Please produce all documents which you intend to introduce or rely at trial in this matter.

REQUEST NO. 6: Please produce all documents related to your claim that you own the intellectual property which you claim that EAGALA used under a license from you.

REQUEST NO. 7: Please produce all documents related to your claim that EAGALA used the intellectual property under a license agreement.

REQUEST NO. 8: Please produce all documents related to your contention that EAGALA made false or defamatory remarks or statements against you, including any written or electronic documents which contain any of the allegedly false or defamatory statements about you.

REQUEST NO. 9: Please produce all documents related to your contention that EAGALA converted your own personal property for its use, including all documents demonstrating your ownership of the particular property, its value, its whereabouts, or any other relevant information about the personal property.

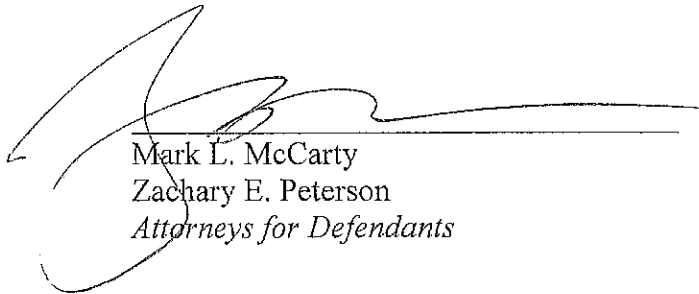
REQUEST NO. 10: Please produce all documents related to your allegation that an employment agreement existed between you and EAGALA.

REQUEST NO. 11: Please produce any license agreements between you and EAGALA with respect to the intellectual property.

REQUEST NO. 12: Please produce all of the intellectual property that you claim you own and which EAGALA improperly used.

DATED this 2 day of June, 2009.

RICHARDS BRANDT MILLER NELSON

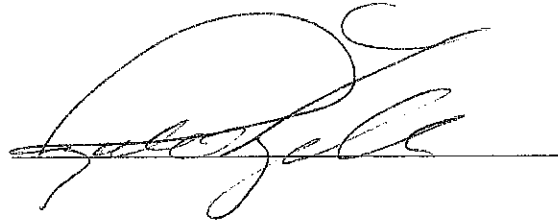


Mark L. McCarty  
Zachary E. Peterson  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument was delivered *via* U.S. First-Class Mail, postage prepaid, on this 2<sup>nd</sup> day of June, 2009, to the following:

Evan A. Schmutz  
Andy V. Wright  
HILL JOHNSON & SCHMUTZ, L.C.  
4844 North 300 West, Suite 300  
Provo, UT 84604  
*Attorneys for Plaintiffs*

A handwritten signature in black ink, appearing to read "Andy V. Wright", is written over a horizontal line. The signature is fluid and cursive.

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MARK L. McCARTY [6001]  
ZACHARY E. PETERSON [8502]  
RICHARDS BRANDT MILLER NELSON  
*Attorneys for Defendants*  
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299 South Main Street  
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Salt Lake City, Utah 84110-2465  
Telephone: (801) 531-2000  
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[zachary-peterson@rbmn.com](mailto:zachary-peterson@rbmn.com)

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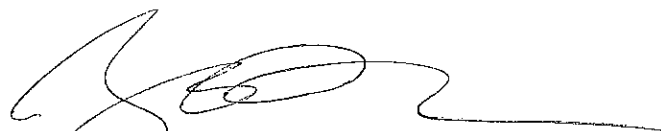
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Zachary E. Peterson, RICHARDS BRANDT MILLER NELSON, counsel for  
Defendants, hereby certifies that on the 2<sup>nd</sup> day of June, 2009, he caused to be served upon all

counsel of record, by first-class mail, postage prepaid, Defendants' First Set of Interrogatories and Request for Production of Documents to Greg Kersten.

DATED this 2<sup>nd</sup> day of June, 2009.

RICHARDS BRANDT MILLER NELSON



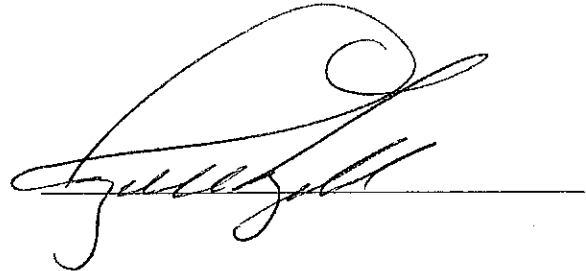
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Andy V. Wright  
HILL JOHNSON & SCHMUTZ, L.C.  
4844 North 300 West, Suite 300  
Provo, UT 84604  
*Attorneys for Plaintiffs*

A handwritten signature in black ink, appearing to read "Evan A. Schmutz", is written over a horizontal line. The signature is highly stylized with large loops and flourishes.

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