

**This is Plaintiff, Keith Duncan's Response to Case 08SC -1345**  
**Affidavit of Robert Dee Rose footnote 2531197v1 dated Jan 7, 2008**

**Mr. Rose is the Defendant/President/Owner of HomeWaves Inc.**

Submitted: Monday, January 26, 2009

First, the Consent to Extend Ruling for Summary Judgement was NOT approved by Plaintiff or Movant. Mr. Rose's Affidavit was not mailed until Jan 7. The original Ruling for Summary Judgement was due on Dec 27, 2008.

Plaintiff, Mr. Duncan, requests immediate ruling for Summary Judgement on the first 3 counts and asks for immediate freeze of all personal and corporate assets. This will ensure that Mr. Rose does not continue liquidating his substantial assets and departing from jurisdiction of US soil to avoid substantial prosecution from Plaintiff and at least 2 other parties who filed lawsuits in 2007, including one 'Unfair Business Practices' claim for \$1,250,000 US Dollars. Reference: Fulton County Superior Court, Civil Case 2007.CV131596 Ron Onorato.

Plaintiff, Mr. Duncan, hereby alleges that Mr. Rose is continuing to massively defraud multiple individuals and companies. Mr. Rose is using his massive wealth to manipulate the legal system to shield himself for his fiducial responsibilities and commitments. Mr. Rose never intended for Mr. Duncan to acquire partnership at Homewaves.

## Response to Mr. Rose's Claims by Plaintiff Mr. Duncan.

### Item #3 and #4.

The three promissory notes were fraudulently issued by Mr. Rose in exchange for the cash investments. The first note for \$70,000 is dated Nov 12 2007 when Mr. Duncan's cash was deposited into the Homewaves account. Mr. Rose's note specifies a fixed interest amount of \$467.00 with no term date or interest rate over time other than DUE on March 1, 2008. Attorney's fees of 4% are unrealistic. Mr. Rose did not sign the first promissory note in Plaintiff's presence. In fact, this note was not signed until Nov 23, 2007 (11 days later). The first promissory note was drafted by Mr. Rose himself. The second and third notes were replicated in style and signed by Mr. Rose personally in presence of Mr. Duncan on Dec 28, 2007 as indicated by the word 'witness' next to Mr. Duncan's signature.

Mr. Rose violated his own Letter of Intent dated Nov 11, 2008 by insisting on the additional expected \$50,000 investment that occurred on Nov 27, 2007 and Dec 27, 2007 BEFORE Mr. Rose completed and signed the partnership agreement with Plaintiff, Mr. Duncan.

Mr. Rose is the sole owner and officer of each of his 17 companies. The \$109,800 total promissory notes were used to pay off debt, payroll, and operating expenses for each company entity of Homewaves, LightLogics, Hunter Custom Homes, (possibly other companies) and to fund materials and

manpower for Mr. Rose's Bahamas shell company known as Residential Automation Inc that is the go-between contracted firm for his multi million dollar Bahama's Paradise Island condo development. These Capital Investments were used by Mr. Rose to shield his exposure so he could obtain new Lines of Credit with Royal Bank of Canada, Wachovia, BB&T, and possibly Suntrust on or about Jan 4 through Jan 10, 2008.

The fourth count of Pierce the Corporate Veil was made by the Plaintiff, Mr. Duncan, when he discovered that the HomeWaves General Ledger contained millions of dollars of Reverse Adjustments dated and back-dated on 6 month intervals of May 31, June 31, and Dec 31 of subsequent years. Also, no revenue income was received from the massive, million dollar contracts shown on the Financial Statements presented to Mr. Duncan, from Mr. Rose's Bahamas condo development project. In fact, Mr. Rose refused to show Mr. Duncan these multi-million dollar contracts with Residential Automation Inc (his company).

## Item #6

Defendant Mr. Rose insisted that Plaintiff Mr. Duncan incur all legal costs for initial partnership agreement. Mr. Rose contributed NO effort or legal counsel to the pursuit of partnership. Mr Rose will be unable to produce legal billing showing any effort on his behalf for completing partnership agreement. Mr. Duncan incurred over \$9,000 of unreimbursed partnership legal expense. Mr. Rose promised by email to reimburse \$1,500 during initial stage. Mr Rose refuses to pay Mr. Duncan for properly submitted employee expense reimbursement.

## Item #7

Plaintiff supplied resumes, references, and extensive professional exposure of his experience and accomplishments from year 2005 through Jan 2008 to Mr. Rose detailing and documenting his capabilities. In fact Mr. Rose verbally enticed Mr. Duncan in Nov 2007 that Mr. Duncan was his preferred choice for a partner because Mr. Duncan was NOT interested in making a fast and easy profit as a result of investing his time and money.

## ITEM #8 and #9

Mr. Duncan presented two highly qualified part time accountants /bookkeepers and was told NO by Mr. Rose, because no one who personally knew Mr. Duncan would be hired. In fact, Mr. Rose and Mrs. Amy Rose did not acquire a replacement accountant until Jan 14, 2008, the date Mr. Rose forced Mr. Duncan out of Homewaves.

Mr. Rose lost his potential clients because Homewaves was not funded, probably illiquid in assets and value, and the Sales team was incompetent. And thank you, Mr. Rose for stipulating in writing that Homewaves profit margin is almost 50%.

## ITEM #10

Plaintiff, Mr. Duncan did not make or profit by a SINGLE DOLLAR during his tenure at Homewaves. In fact, Mr. Duncan deposited additional money into Homewaves Suntrust bank to cover checks signed by Mr. Rose. No checks were signed by Mr. Duncan. In fact, Mrs. Amy Rose signed many checks in Mr. Duncan's presence even though she is not an authorized signature holder. All financial expense and deposit transactions for Homewaves and Lightlogics were documented, shown, and cleared through Mrs. Amy Rose and Mr. Robert Rose. A few minor Purchases (under \$2,000) were made by Mr. Duncan from his personal credit card for emergency inventory and were reimbursed by signature of Mrs. Amy Rose during the next pay period.

Regarding IRS forms, Mrs. Amy Rose is the accountant for all 17 companies owned by Mr. Rose and was responsible for monitoring all compliance.

Plaintiff, Mr. Duncan, has lost the value of the promissory notes for over one year now, incurred over \$30,000 in legal expenses, and has personally invested over 400 hours of his personal time investigating and pursuing return of his valuable family assets.

## ITEM #11

All allegations firmly and completely denied. All financial, legal, and other documentation currently in possession of Mr. Duncan was legally obtained, was appropriately disclosed to his legal counsel, and will be admitted into court evidence at the appropriate time to show extensive fraud and corruption by Mr. Rose against multiple clients, vendors, employees, and/or business associates. Mr. Duncan has not profited a SINGLE DOLLAR from his knowledge of Mr. Rose's confidential information.

## OPTIONAL DETAILS:

### TIMELINE starting Nov 2007

1. ROBERT ROSE called Mr. Duncan and asked if he would run one of his companies in exchange for \$120K investment in form of Promissory Note that would convert to 15% Partnership within 45 days. Letter of Intent was signed. Financial Statements provided to Mr. Duncan showed company value at \$4.5 million USD. Promises were made that all investment money converted to Stock would be returned within 6 months. As of late December 2007, Mr. Duncan discovered company has negative net worth and massive debt.
2. ROBERT ROSE refused to allow Mr. Duncan's CPA to look at General Ledger or details of the company. Mr. Duncan was told by ROBERT ROSE that he admitting to moving money on the General Ledger between reporting years to avoid paying taxes on money he had not collected. Mr Rose is on the accrual basis, work had been performed, and Mr. Rose had major collection issues.
3. Mr. Duncan was asked to work for NO Compensation for 1 year in exchange for 15% stock. ROBERT ROSE did not request, ask, or issue any employment agreement, SubContractors Agreement, non-disclosure, or confidentiality agreement.

4. Soon after making initial \$70K promissory note, ROBERT ROSE put the HomeWave (2) buildings up for sale without notifying Mr. Duncan. These buildings owned by ROBERTS Einstein Holdings. Excuses followed.
5. ROBERT ROSE spends 95% of his time in Bahamas developing massive Residential Condo project in Bahamas with sales revenue projected at \$4 to \$12 million per year (ROBERT ROSE's own email says this). ROBERT ROSE is 10% owner of 80 unit condo Bahamas project. Each unit sells for \$1 million USD with possible electronics upgrade (from ROBERT ROSE) from \$20K to \$100K each unit). Contract value of home company to his Bahamas project is approximately \$4.1 million USD. Evidence discovered indicating sales revenue is closer to potentially \$16 million USD. On the Financial Statements are bookings for millions of dollars of equipment and business for ROBERT ROSE's Bahamas Based business. This grossly overvalued the local Homewaves company.
6. ROBERT ROSE solely owns 17 businesses and states personal worth at \$15.5 million. Each company owns one building or one enterprise.
7. Ex-Employee told Mr. Duncan of being required by ROBERT ROSE to transport \$9,800 cash every trip they came back from Bahamas. This did not show up in Bank Deposits.
8. Mr Robert Rose told Mr. Duncan that he paid off a former top ranking Bahamas elected official to obtain a highly coveted Company Registration (Residential Automation Inc) to allow Mr. Rose to operate in the Bahamas and transfer funds from Bahamaian dollars back to US Dollars. The Royal Bank of Canada is the only bank pipeline according to Mr. Rose.
9. ROBERT ROSE has liquated many of his USA real estate investments. ROBERT ROSE took all equity out of current HomeWaves building in April 2008 in form of \$447,000 interest only loan with no collateral. This building is owned by his Einstein Holdings company. The loan term is one year.
10. ROBERT ROSE built a \$2.4 million USD speculative home in North Atlanta that ??was?? on the market. It has not been listed since April 2008. His Local company supplied all electronic material & labor under contract including his contractor building the house who is on the Local Homewaves Company payroll.
11. ROBERT ROSE lives a lavish lifestyle. ROBERT ROSE owns his Cumming based home worth ~ \$600K, Homewaves supplied electronics installed in his home estimated \$400K, owns \$1 million USD condo in Bahamas, an estimated ~ \$400K USD 40 foot deep sea cruiser with ~ \$200K electronics, a ~ \$120K custom Morgan 2-seater sport car, a new ~ \$40K custom Harley Davidson Motorcycle Trike, and multiple real estate holdings that were worth over \$6 million USD. Just bought a new top end GMC SUV for his wife.
12. ROBERT ROSE did not tell Mr. Duncan he had sued 5 clients for ~ \$600K before Oct 2007. Nor did he tell Mr. Duncan that he had been countersued for over \$1.5 Million USD as of Spring 2007.
13. ROBERT ROSE refused to allow Mr. Duncan to attend the (4) new separate banking relationship meetings for Line of Credits. The new LOC's were finalized between Jan 4 and Jan 10, 2008. Mr. Duncan's Promissory Notes show on General Ledger as Capital Investment and not as Liability and Accounts Payable. Mr. Duncan's lawyer subpoenaed these (4) banks for the Financial Statements submitted by ROBERT ROSE for new Lines of Credit. ROBERT ROSE's lawyer responded by obtaining Protective Orders.
14. ROBERT ROSE forced Mr. Duncan out of the company after Mr. Duncan discovered major accounting discrepancies and showed current Accounts Payable printouts to ROBERT ROSE on January 14, 2008.

15. When asked to honor his promissory notes due in full by March 2008, ROBERT ROSE wrote a threatening letter in Feb/March 2008 refusing to pay. When called in summer of 2008, ROBERT ROSE promised to pay back 'as soon as possible'.
16. Mr. Duncan expects ROBERT ROSE will skip USA in next 60 days to avoid legal prosecution.

Mr. Duncan requests immediate ruling for Summary Judgment on counts 1,2,3

Signed: Keith Duncan

Dated: January 26, 2008