

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

SOUTH DAKOTA PUBLIC UTILITIES
COMMISSION, an agency of the State of South
Dakota,

Plaintiff,

vs.

LES SUMPTION and MATT SWEARINGEN
d/b/a S&S Communications and S&S
COMMUNICATIONS, a South Dakota general
partnership,

Defendants.

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CIV 05-236

**AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
DEFAULT JUDGMENT**

John J. Smith, Assistant Attorney General and attorney for the Plaintiff, South Dakota Public Utilities Commission ("Plaintiff" or "Commission"), states the following pursuant to SDCL 15-6-55(a) in support of the Commission's Application for Default Judgment:

1. The Commission commenced this action on July 19, 2005, by service by mail on Defendants' attorney, John W. Burke, who represented to affiant both verbally and by execution of the Admission of Service of Summons and Complaint by Mail that he was authorized to accept service by mail on Defendants' behalf. Defendants, through their attorney, admitted service of the Summons and Complaint on July 29, 2005.

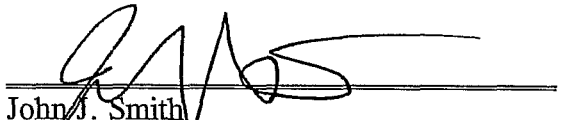
2. The Notice and Admission of Service of Summons and Complaint by Mail stated in the last paragraph: "If you do complete and return this form, you or the above-named defendants must answer within thirty (30) days. If you fail to do so, judgment by default may be taken against your clients for the relief granted."

3. To the knowledge of affiant, Defendants have not served an answer or, other than the Admission of Service of Summons and Complaint by Mail, any other pleading in this case upon the Commission. Defendants' attorney stated to affiant verbally that Defendants did not intend to defend this action. To the knowledge of the Commission, Defendants have filed neither an answer nor any other pleading in this case other than the Admission of Service of Summons and Complaint by Mail.

4. Defendants have neither paid anything to the Commission in satisfaction of the \$13,400 in civil fines levied by the Commission nor given any indication to the Commission that they intend to do so.

5. Defendants have executed and performed a Voluntary Surrender Agreement pursuant to which, to the best knowledge and belief of affiant, all assets of S&S Communications, a general partnership, were surrendered to Aberdeen Finance Corporation in lieu of foreclosure. A copy of the Voluntary Surrender Agreement is attached as Exhibit A hereto.

Dated this 17th day of May, 2006.

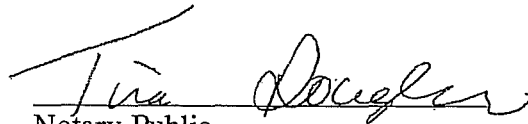


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Attorney for Plaintiff, South Dakota Public
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On this 17th day of May, 2006, came before me, a Notary Public in and for the State of South Dakota, John J. Smith, who is well known to me and who, having been first duly sworn, executed the foregoing Affidavit in my presence.

(SEAL)



Notary Public

My Commission Expires: TINA DOUGLAS
My Commission Expires
April 14, 2011