

5. The Motion to Dismiss states only that it is made "for the Failure to State a Claim Upon Which Relief may be Granted." Rule 22.16(a)(2) provides that all motions must state the grounds therefore, with particularity. The Motion to Dismiss fails to provide any particularity how the Compliant allegedly fails to state a claim upon which relief may be granted, and affords Complainant no information with which it can frame a response. The Motion should be denied.

6. The Motion for a More Definite Statement alleges that the Complaint's averments in paragraphs 14, 15, 17, 18, and 19 are so vague and ambiguous that Respondent cannot be certain it has reasonably prepared and pleaded an accurate response in its Answer. Complaint disputes this assertion, and in any event asserts that the Prehearing Order requiring Complainant in its Initial Prehearing Exchange due April 30, 2010, to provide the documents (including leases) to support its allegations in Paragraphs 13, 14, 17, and 18, provide all of the relief sought by Respondent in its Motion. By the time of the Initial Prehearing Exchange contemplated under the Rules of Practice for a fair adjudication of this matter, Respondent will have all information necessary to understand the nature of the allegations against it and to timely prepare its responses and defenses. Complainant denies that Paragraphs 15 and 19 are vague and ambiguous; the paragraphs reference the particular acts that support the violations. The Motion should be denied.

7. Not in response to the Motion for a More Definite Statement, but in furtherance of the Prehearing Order's direction to engage in settlement discussions, on April 6, 2010, Complainant e-mailed Respondent (1) providing copies of the leases and disclosure statements for the two counts cited in the Complaint; (2) providing a copy of the Penalty Policy; (3) explaining how the penalties cited in the Complaint were calculated. Complainant admits no deficiency in its pleadings; but contends that Respondent has in its possession, or will have by the time of the Initial Prehearing Exchange contemplated under the Rules of Practice for a fair adjudication of this matter, all information necessary to understand the nature of the allegations against it and to timely prepare its responses and defenses; and that the relief sought by the Motion for a More Definite Statement is now or will be moot. The Motion should be denied.

8. For the reasons stated in the preceding paragraphs, Complainant reiterates and requests that Respondent's Motion to Dismiss and Motion for a More Definite Statement be denied.

Respectfully submitted,



Robert W. Richards, Attorney
Office of Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand carried the original Status Report in the matter of KASHFLOW, INC, Docket No. TSCA-07-2010-0002, to the Regional Hearing Clerk and sent a true and exact copy of the Status Report by certified mail, return receipt requested to:

Robert C. Withington, Esquire
7116 Oakland Avenue
Richmond Heights, Missouri 63117

and sent a copy by fax to:

Honorable Susan L. Biro
Fax number: 202-565-0044.

4/16/10

Date


Signature