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**UNITED STATES DISTRICT COURT  
 DISTRICT OF IDAHO**

POCATELLO DENTAL GROUP, P.C., )  
 an Idaho professional corporation, )  
 )  
 Plaintiff, )

vs. )

INTERDENT SERVICE CORPORATION, )  
 a Washington corporation, )  
 )  
 Defendant. )

Case No. CIV 03-450-E-BLW

INTERDENT SERVICE CORPORATION, )  
 a Washington corporation, )  
 )  
 Counterclaimant, )

**PLAINTIFF'S ANSWER TO  
 INTERDENT SERVICE  
 CORPORATION'S AMENDED  
 AND SUPPLEMENTAL  
 ANSWER, COUNTERCLAIMS,  
 AND THIRD PARTY  
 COMPLAINT**

vs. )

POCATELLO DENTAL GROUP, P.C., an )  
 Idaho professional corporation; DWIGHT G. )  
 ROMRIJELL, individually; LARRY R. )  
 MISNER, JR., individually; PORTER )  
 SUTTON, individually; ERNEST SUTTON, )  
 individually; GREGORY ROMRIJELL, )  
 individually; ERROL ORMOND, individually; )  
 and ARNOLD GOODLIFFE, individually; )

Counterdefendants. )

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COMES NOW Pocatello Dental Group, P.C. ("PDG"), by and through its attorneys of record, and in answer to the Defendant/Third Party Plaintiff's Amended and Supplemental Answer, Counterclaim and Third Party Complaint ("Counterclaim"), admits, denies and alleges as follows:

1. Paragraph 1. of InterDent's Counterclaim does not require an answer from PDG, however to the extent that it does, the same is hereby denied.
2. PDG admits the allegations contained in paragraphs 2. through 12. of the Counterclaim.
3. In answer to paragraph 13. of the Counterclaim, PDG admits that InterDent claims to be in the business of providing or arranging for management services, facilities and certain personnel for dental practices, but denies that InterDent has satisfactorily performed such services for PDG.
4. PDG admits the allegations contained in paragraph 14. of the Counterclaim.
5. PDG objects to the allegations contained in paragraph 15. of the Counterclaim, as the same contains a legal conclusion. Otherwise, PDG denies the allegations contained in said paragraph.
6. PDG admits the allegations contained in paragraph 16. of the Counterclaim, but affirmatively alleges that InterDent's conduct has materially breached the Management Agreement thereby excusing PDG's performance thereunder and terminating the agreement.
7. PDG has insufficient information or knowledge upon which it can base an admission or denial of the allegations of paragraph 17. of the Counterclaim, and therefore denies the same.

8. In answer to paragraph 18. of the Counterclaim, PDG admits that InterDent has alleged contracted to provide management services, facilities and certain personnel for PDG's dental practices, but denies that InterDent has satisfactorily performed such services for PDG.

9. In answer to paragraph 19. of the Counterclaim, PDG admits that it is responsible for all aspects of the practice of dentistry by the Group and the delivery of dental services, and denies the remaining allegations of said paragraph.

10. PDG has insufficient information or knowledge upon which it can base an admission or denial of the allegations of paragraph 20. of the Counterclaim, and therefore denies the same.

11. In answer to paragraph 21. of the Counterclaim, PDG admits that it provides dental services to patients through its employed dentists, but denies the remaining allegations of said paragraph as the same is vague and confusing.

12. In answer to paragraph 22. of the Counterclaim, PDG admits the Management Agreement contains a paragraph 5.2(b) and that it contains language similar to the allegations contained in paragraph 22. of the Counterclaim, but denies that said paragraph is enforceable and affirmatively alleges that said paragraph is conflict with other provisions of the Management Agreement, including paragraph 3.8(a) thereof, which vests in PDG all aspects relating to the practice of dentistry, including the right to employ and contract with dentists.

13. In answer to paragraph 23. of the Counterclaim, PDG denies the same, and affirmatively alleges that InterDent unlawfully controls the JOC on matters which relate to the practice of dentistry and the delivery of dental services by PDG, matters wholly reserved to PDG under the Management Agreement.

14. In answer to paragraph 24. of the Counterclaim, PDG denies the same, and affirmatively alleges that InterDent has unlawfully attempted to control or thwart PDG's decisions on the hiring of dentists, which decisions relate to the practice of dentistry and the delivery of dental services by PDG, matters wholly reserved to PDG under the Management Agreement.

15. In answer to paragraph 25. of the Counterclaim, PDG denies the same, and affirmatively alleges that InterDent has interpreted the Management Agreement in such away as to permit it to unlawfully control or thwart, or attempt to unlawfully control or PDG's decisions relating to the practice of dentistry and the delivery of dental services by PDG, matters wholly reserved to PDG under the Management Agreement.

16. In answer to paragraph 26. of the Counterclaim, PDG admits that to the extent such assets existed on the date of transfer, said assets were transferred to InterDent, but denies that revenues, as that term is defined by the Management Agreement, which have accrued after the date of transfer belong to InterDent until after InterDent has fully satisfied its obligations under the Management Agreement by paying all of the obligations of PDG arising from its operations. PDG further alleges that InterDent, under oath, has judicially admitted that such revenues belong to PDG and not InterDent. Further, under Article 7, Management Fee, Interdent is not entitled to any fee for its management services until all costs associated with the PDG facilities, furniture, fixtures, equipment, the employment of all non-dentist employees of InterDent, and PDG's obligations and expenses have been paid in full.

17. In answer to paragraph 27. of the Counterclaim, PDG admits the same, and alleges that InterDent has failed to perform its obligation by charging back to PDG's dentists certain charges associated with InterDent's employment of non-licensed employees working at the office of PDG.

18. In answer to paragraph 28. of the Counterclaim, PDG admits the same, and alleges that InterDent has failed to provide PDG with such budget, or provide PDG with accounting and operational records which would allow it to determine if the budget is being performed by InterDent.

19. In answer to paragraph 29. of the Counterclaim, PDG denies the same.

20. In answer to paragraph 30. of the Counterclaim, PDG denies the same, and alleges that InterDent's financial policy and procedure contravenes specific provisions of the Management Agreement and constitute a material breach thereof.

21. PDG has insufficient information or knowledge upon which it can base an admission or denial of the allegations of paragraph 31. of the Counterclaim because InterDent has failed and refused to provide PDG with financial, accounting and operational records substantiating such allegation, and therefore denies the same. PDG further alleges that the Management Agreement, in paragraph 4.6(a) requires InterDent to comply with PDG's reasonable and lawful policies regarding courtesy discounts.

22. In answer to paragraph 32. of the Counterclaim, PDG admits the same but affirmatively alleges that the same report documents InterDent's failure to maintain PDG's status as the preeminent group dental practice in Pocatello and the surrounding area, as required by paragraph 4.1 of the Management Agreement.

23. In answer to paragraph 33. and 34., of the Counterclaim, PDG admits the same.

24. In answer to paragraph 35. of the Counterclaim, PDG denies the same.

25. In answer to paragraph 36. of the Counterclaim, PDG admits the same, and alleges that such practice has been accepted by InterDent and its predecessors and has established a course

of dealing between the parties which is consistent with tenor and terms of the Management Agreement, pursuant to which PDG has sole authority to control the practice of dentistry and InterDent is prohibited from entering into contracts and agreements with licensed dentists.

26. In answer to paragraph 37. of the Counterclaim, PDG denies the same. PDG withdrew its objection to InterDent's assumption of the Management Agreement without requiring InterDent to first make cure payments. PDG did not admit that no breach of the Management Agreement occurred. Nor did PDG consent to InterDent's post-confirmation breach of the Management Agreement or modify the Management Agreement so that InterDent is excused from post-confirmation performance of its obligations thereunder.

27. In answer to paragraph 38. of the Counterclaim, PDG admits that R.L. Misner executed the 2003 Employment Contract between PDG and Romriell, but denies the remaining allegations of that paragraph.

28. In answer to paragraph 39. of the Counterclaim, PDG denies the same.

29. In answer to paragraphs 40., 41., 42., and 43., of the Counterclaim, PDG denies the same.

30. PDG has insufficient information or knowledge upon which it can base an admission or denial of the allegations of paragraph 44. of the Counterclaim because InterDent has failed and refused to provide PDG with financial, accounting and operational records substantiating such allegations, and therefore denies the same.

31. In answer to paragraph 45. of the Counterclaim, PDG admits that conversations took place between those parties, but deny that InterDent committed to any particular course of action which would bring it into compliance with the Management Agreement.

32. In answer to paragraph 46. of the Counterclaim, PDG admits that it obtained an Ex Parte TRO, but denies the remaining allegations of said paragraph.

33. In answer to paragraph 47. of the Counterclaim, PDG denies the same.

34. In answer to paragraph 48. of the Counterclaim, PDG admits that conversations took place between those parties, but deny that InterDent committed to any particular course of action which would bring it into compliance with the Management Agreement.

35. In answer to paragraphs 49. and 50. of the Counterclaim, PDG admits that InterDent was properly served with the Summons, Complaint and Temporary Restraining Order and denies the remaining allegations of said paragraphs.

36. In answer to paragraphs 51. and 52. of the Counterclaim, PDG admits the same.

37. In answer to paragraphs 53. and 54. of the Counterclaim, PDG denies the same.

38. In answer to paragraphs 55. and 56. of the Counterclaim, PDG denies the same, alleging that Romriell is not engaged in the general practice of dentistry but, rather, in the treatment of diseases commonly referred to as TMJ disorders.

39. In answer to paragraph 57. of the Counterclaim, PDG denies the same.

40. In answer to paragraph 58. of the Counterclaim, PDG admits that it informed the Court of relevant facts denies any improper acts or omissions on its part, and denies the remaining allegations of said paragraph.

41. In answer to paragraph 59. of the Counterclaim, PDG admits that it informed the Court of relevant facts denies any improper acts or omissions on its part, and denies the remaining allegations of said paragraph.

42. In answer to paragraph 60. of the Counterclaim, PDG admits the same.

43. In answer to paragraphs 61., 62., 63. of the Counterclaim, PDG admits that the Consulting Report contains statements and recommendations which speak for themselves, and which, as a whole, confirms InterDent's breach of the Management Agreement. PDG otherwise denies the allegations of these paragraphs.

44. In answer to paragraph 64. of the Counterclaim, PDG admits that it opened a post office box in order to force InterDent to comply with its obligations under the Management Agreement. PDG admits that portions of the Management Agreement are quoted in this paragraph but alleges that as a whole InterDent has failed to honor its obligations under the Management Agreement. PDG otherwise denies the allegations of this paragraph.

45. In answer to paragraph 65. of the Counterclaim, PDG admits the same.

46. In answer to paragraph 66. of the Counterclaim, PDG denies the same.

47. In answer to paragraph 67. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 63 of the Counterclaim as if set forth herein at length.

48. In answer to paragraphs 68., 69., and 70. of the Counterclaim, PDG denies the same.

49. In answer to paragraph 71. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 66 of the Counterclaim as if set forth herein at length.

50. In answer to paragraph 72. of the Counterclaim, PDG admits that there is implied in every contract a covenant of good faith and fair dealing, and denies the remaining allegations of said paragraph.

51. In answer to paragraphs 73. and 74. of the Counterclaim, PDG denies the same.
52. In answer to paragraph 75. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 70. of the Counterclaim as if set forth herein at length.
53. In answer to paragraphs 76., 77., and 78. of the Counterclaim, PDG denies the same.
54. In answer to paragraph 79. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 74. of the Counterclaim as if set forth herein at length.
55. In answer to paragraphs 80., 81., 82., 83., 84., 85., and 86. of the Counterclaim, PDG denies the same.
56. In answer to paragraph 87. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 82. of the Counterclaim as if set forth herein at length.
57. In answer to paragraphs 88. and 89. of the Counterclaim, PDG admits the same.
58. In answer to paragraphs 90., 91., 92., 93., and 94. of the Counterclaim, PDG denies the same.
59. In answer to paragraph 95. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 89. of the Counterclaim as if set forth herein at length.
60. In answer to paragraphs 96., 97., 98., 99., 100., 101., and 102. of the Counterclaim, PDG denies the same.
61. In answer to paragraph 103. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 97. of the Counterclaim as if set forth herein at length.
62. In answer to paragraphs 104., and 105. of the Counterclaim, PDG denies the same.

63. In answer to paragraph 106. of the Counterclaim, PDG realleges its answers to paragraphs 1. through 100. of the Counterclaim as if set forth herein at length.

64. In answer to paragraph 107. of the Counterclaim, PDG admits the same.

65. In answer to paragraphs 107., and 108. of the Counterclaim, PDG alleges that its accounts receivables belong to PDG and not to InterDent, and that all of PDG's obligations are to be paid out of said revenues pursuant to the Management Agreement, before InterDent is entitled to any management fee. InterDent is not entitled to a reformation of the contract to relieve it from its obligation to pay PDG's obligations before taking a management fee. To the extent necessary, PDG denies the allegations of these paragraphs.

#### **RESPONSE TO REQUEST FOR ATTORNEY FEES**

PDG admits that InterDent has retained Stoel Rives LLP to represent its interests, but denies that it is entitled to the payment of any attorney fees or costs of suit from PDG.

#### **AFFIRMATIVE DEFENSES**

Unless otherwise specified, PDG denies each and every allegation contained in Counterclaimant's counterclaim unless expressly and specifically admitted.

#### **FIRST DEFENSE**

Counterclaimant's counterclaim, and each and every allegation contained therein, fails to state a claim against Counterdefendant upon which relief can be granted.

#### **SECOND DEFENSE**

Counterclaimant has failed to mitigate its damages, if any.

### **THIRD DEFENSE**

Counterclaimant's claims are barred by the doctrine of unclean hands.

### **FOURTH DEFENSE**

Counterclaimant has waived, or is estopped from asserting all claims set forth in the Counterclaim.

### **FIFTH DEFENSE**

The Counterclaimant's claim(s) are barred by the applicable statute of limitations.

### **SIXTH DEFENSE**

This answering Counterdefendant alleges that the Counterclaimant's Complaint and the claims therein are barred by the doctrine of laches.

### **SEVENTH DEFENSE**

The allegations in the Counterclaimant's Complaint pertaining to fraud are not pled with sufficient particularity and specificity and the claim is therefore barred.

### **EIGHTH DEFENSE**

The foregoing defenses are applicable, where appropriate, to any and all of Counterclaimant's claims for relief. In asserting these defenses, this Defendant does not admit that it has the burden of proving the allegations or denials contained in the defenses, but, to the contrary, asserts that by reasons of the denials and/or by reason of relevant statutory and judicial authority, the burden of proving the facts relevant to many of the defenses and/or the burden of proving the inverse to the allegations contained in many of the defenses is upon the Counterclaimant. Counterdefendant does not admit, in asserting any defense, any responsibility or liability, but, to the contrary, specifically denies any and all allegations of responsibility and liability in Counterclaimant's counterclaim.

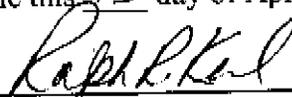


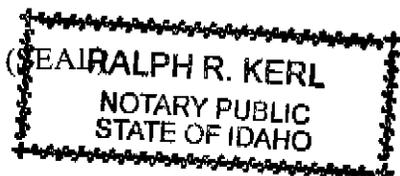
and Supplemental Answer, Counterclaims, and Third Party Complaint, knows the contents thereof,  
and that the facts therein stated are true as he verily believes.

DATED this 13 day of April, 2004.

  
\_\_\_\_\_  
GREGORY ROMRIELL  
President of Pocatello Dental Group, P.C.

SUBSCRIBED AND SWORN to before me this 13 day of April, 2004.

  
\_\_\_\_\_  
NOTARY PUBLIC for Idaho  
Residing at: Pocatello \_\_\_\_\_  
Commission Expires: 4-16-06



CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 19 day of April, 2004, I served a true and correct copy of the  
foregoing document as follows:

Erik F. Stidham  
G. Rey Reinhardt  
STOEL RIVES LLP  
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By:   
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Ron Kerl