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IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

GENERAL JUDICIAL DIVISION

CASE NUMBER:

08054561

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SCOTTIE PIPPEN, on behalf of Learn.com, Inc.,
a foreign corporation, and the shareholders of
Learn.com, Inc.

Plaintiff,

v.

LEARN.COM, INC. a foreign corporation,
JAMES RILEY, and J.W. RAY,

Defendants.

VERIFIED COMPLAINT

Plaintiff, SCOTTIE PIPPEN ("Pippen"), on behalf of Learn.com, Inc., and the shareholders of Learn.com, Inc., by and through undersigned counsel, sues Defendants, LEARN.COM, INC., a foreign corporation, ("LDC" or the "Company"), JAMES RILEY ("Riley"), and J.W. RAY ("Ray") (collectively, "Defendants"), and alleges:

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CIRCUIT CIVIL

1. This is an action for damages in excess of \$15,000.00, exclusive of interest, costs, and attorneys' fees.
2. At all times material, Pippen was and is a resident of Broward County, Florida, and is in all respect *sui juris*.
3. At all times material, Pippen was and is a shareholder of 500,000 shares of LDC stock.
4. At all times material, LDC was and is a Delaware corporation that was and is authorized to conduct business in the State of Florida. At all times material, LDC maintained a principal place of business in Broward County, Florida.

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5. At all times material, Riley was and is a resident of Broward County, Florida, and is in all respect *sui juris*.

6. At all times material, Ray was and is a resident of Broward County, Florida, and is in all respect *sui juris*.

7. Venue is proper in the Circuit Court for Broward County all defendants either reside in or maintain a principal place of business in Broward County, and because Pippen's causes of action accrued in Broward County.

8. All conditions precedent to filing this lawsuit have occurred, been performed, or been waived.

9. Pippen has retained the undersigned law firm to represent him – on behalf of LDC and its shareholders and in his capacity as a shareholder of LDC – in this lawsuit and has agreed to pay such firm a reasonable fee for its services.

GENERAL ALLEGATIONS

10. On or about June 8, 2001, Riley, as the sole member of LDC's board of directors, appointed Ray as Senior Vice President of LDC. At the same time, Ray was granted certain stock options for LDC stock. Specifically, an option grant of 1.1 million shares of common stock in the Company was given to Ray whereby Ray would have the option to purchase said shares for a price of \$0.25 per share (*i.e.*, \$275,000.00); additionally, an option grant of 300,000 shares of common stock in the Company was given to Ray whereby Ray would have the option to purchase said shares for a price of \$1.00 per share (*i.e.*, \$300,000.00). Accordingly, if all of said stock options were exercised, the intended purchase price for the 1.4 million shares of stock in the Company was to be \$575,000.00. *See Composite Exhibit "A"* attached.

11. On or about January 4, 2002, Pippen was issued 500,000 shares of common stock in the Company for a purchase price of \$1.00 per share. Accordingly, in consideration for \$500,000.00,

LDC granted Phippen 500,000 shares of common stock in the Company. *See Composite Exhibit "B"* attached.

12. On or about July 8, 2002, LDC approved an amendment to Ray's employment agreement with the company. As part of said amendment, Ray was granted an option to purchase an additional 300,000 shares of stock in the Company for a price of \$0.25 per share (*i.e.* \$75,000.00). *See Composite Exhibit "C"* attached.

13. On or about August 7, 2002, an option to purchase 1.6 million shares of stock in LDC was granted to MDR Fitness Corp. (a fictitious name for an entity known as RFH Enterprises, Inc. ("RFH"); Riley is also President of RFH). The strike price for said stock options was \$0.10 per share. As set forth in the operative document (the *Written Consent of the Sole Director of Learn.com, Inc.*) attached as **Composite Exhibit "D"**, the consideration for the grant of stock options to MDR Fitness Corp., was "certain financing provided to the corporation and certain consulting services provided to MDR."

14. On or about October 18, 2004, the Company took action to amend Ray's employment agreement again. As a result, Ray was to be granted an option to purchase 400,000 additional shares of LDC stock on January 2, 2005. The strike price for these options was to be calculated when issued based on "fund raising valuation estimate." *See Exhibit "E"* attached hereto.

15. On or about January 4, 2005, Ray gave a promissory note to LDC in the amount of \$305,000.00. *See Exhibit "F"*. According to the terms of the note, it is to bear interest at a rate of 6% and is due and payable on January 4, 2010. Further, the note may be completely forgiven by LDC at any time and at the sole discretion of LDC. Said promissory note was to constitute payment for the 2.1 million stock options that LDC had previously granted to Ray. However, based upon the strike prices set forth in LDC's stock options grants to Ray, the purchase price *should have been* at least \$750,000.00. The reason for the discrepancy is twofold. First, although Ray had previously

been granted an option to purchase 1.1 million shares of LDC stock for a price of \$0.25 per share, the *actual* purchase price for those shares was \$0.05 per share. Second, the promissory note reflects that Ray was exercising an option to purchase 300,000 shares of LDC stock for \$0.25 per share pursuant to an option granted to Ray on August 8, 2002; however, upon information and belief, no such option grant exists. Rather, the only unexercised option that Ray possessed for the purchase of 300,000 shares of LDC stock was that which was granted to him on June 8, 2001 for a strike price of \$1.00 per share. Accordingly, Ray's liability to the Company (through his promissory note to LDC) was reduced by at least \$445,000.00.¹

16. On January 4, 2005, Riley was the sole director of LDC.

17. On January 4, 2005, Riley was a director and the President of RFH.

18. On or about January 4, 2005, RFH gave a promissory note to LDC for \$160,000.00 for the purchase of 1.6 million shares of LDC stock at a price of \$0.10 per share. *See Exhibit "G"*. Like the January 4, 2005 promissory note that Ray gave to LDC, RFH's promissory note to LDC is to bear interest at a rate of 6%, is due and payable on January 4, 2010, and could be completely forgiven at any time at the sole discretion of LDC. Although Riley was a director and the President of RFH at the time this transaction was entered into, Riley failed to comply with Florida Statute § 607.0832 by not disclosing his relationship to the shareholders entitled to vote and failing to obtain their authorization, approval, or ratification of this transaction by vote or written consent.

19. Upon information and belief, to this date neither Ray nor RFH has paid any monies to LDC that would constitute payments of either principal or interest under the promissory notes to LDC.

¹ This calculation assumes that the \$0.25 per share price for Ray's purchase of 400,000 shares of LDC stock was implicitly approved when the Company approved Ray's promissory note because prior to accepting the note, the Company had not yet determined the purchase price for those shares.

20. On or about May 17, 2006, and pursuant to § 607.07401, Florida Statutes, Pippen, as a shareholder of LDC stock, demanded that LDC's board of directors take action to, *inter alia*, investigate the aforementioned transactions; to take any and all legal action necessary against Riley, Ray, and anyone else improperly involved in said transactions; and to reverse the stock issuances to Ray and RFH, recalculate LDC's issued, authorized shares, and issue new shareholder distributions based on the recalculated ownership of LDC.

21. On or about May 30, 2006, a special meeting of LDC's board of directors was held. At that time, board members Neil Malik and Javier Polit were appointed as allegedly independent directors charged with the duty of investigating Pippen's statutory demand. However, as evidenced in the minutes to that meeting (attached as **Exhibit "H"**), LDC did not comply with § 607.07401(3)(b), Florida Statutes, because Messrs. Malik and Polit were appointed by two interested (*i.e.*, non-independent) directors – Riley and Ray. As such, because Messrs. Malik and Polit were not independent directors and the investigation was not independently conducted, Pippen's statutory demand was effectively ignored.

22. Notwithstanding the above, on or about September 7, 2006, LDC issued a *Report of the Committee of Directors Formed by Learn.Com, Inc., Pursuant to Florida Statutes Section 607.07401 to Investigate and Analyze Matters Raised by Shareholder Mr. Scottie Pippen on May 17, 2006* ("Report"; attached as **Exhibit "I"**). Ultimately, and as set forth in the Report, LDC refused Pippen's statutory demands.

23. On November 27, 2007, Pippen made a shareholder demand (attached as **Exhibit "J"**) wherein, *inter alia*, Pippen requested 1) "[a]ll records evidencing that the Company 'received free use of office space of RFH,' as stated at page six (6) of the Report, as well as all records evidencing the value of said office space of RFH at the time it was provided" (*see* Exhibit "J" at para. J); 2) [a]ll records evidencing that 'RFH provided to Learn.com, free of charge, use of valuable office

equipment and staff support.... includ[ing] use of computer hardware, T-1 telephone lines, photocopier and fax machines,' as stated at page six (6) of the Report, as well as all records evidencing the value of said equipment and support staff services at the time they were provided" (see Exhibit "J" at para. K); and 3) "[a]ll records evidencing that 'without charge, RFH provided to Learn.com the use of RFH staff for computer support, administrative and accounting services' as stated at page six (6) of the Report, as well as all records evidencing the value of said RFH staff services at the time they were provided" (see Exhibit "J" at para. L). In response to each of these requests, LDC indicated that there were no such documents. See January 15, 2008 response to shareholder demand attached as **Exhibit "K"** at paras, J-L.

COUNT I – BREACH OF FIDUCIARY DUTY

24. Pippen and the other shareholders of LDC have a relationship with Defendants whereby he and the other shareholders of LDC reposed trust and confidence in Defendants to act in the best interests of the Company and its shareholders.

25. Defendants, as officers and directors of LDC, undertook such trust and confidence by serving as LDC's officers and directors. Accordingly, they assumed a duty to protect the Company and its shareholders.

26. Defendants breached their duties to the Company and its shareholders by:

- A. Allowing Ray to purchase 1.1 million shares of stock in LDC for \$0.05 per share instead of the price set forth in Ray's June 8, 2001 option grant, *i.e.*, \$0.25 per share;
- B. Allowing Ray to purchase 300,000 shares of stock in LDC for \$0.25 per share instead of the price set forth in Ray's June 8, 2001 option grant, *i.e.*, \$1.00 per share;

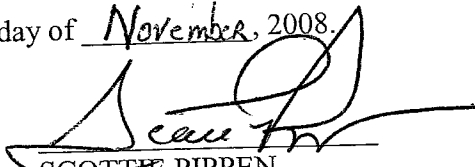
- C. Lending Ray \$305,000.00 without any adequate consideration to LDC due to the fact the loan can be forgiven at any time by the Company and further due to the fact that no payments are required by Ray until the maturity date (by which time it would inure to Ray's benefit to obtain forgiveness of the loan by the Company);
- D. Lending RFH \$1,600,000.00 without any adequate consideration to LDC due to the fact the loan can be forgiven at any time by the Company and further due to the fact that no payments are required by RFH until the maturity date (by which time it would inure to RFH's benefit to obtain forgiveness of the loan by the Company);
- E. Failing to comply with Florida Statute § 607.0832 by not disclosing his relationship to the shareholders entitled to vote and failing to obtain their authorization, approval, or ratification of this transaction by vote or written consent; and
- F. Granting MDR Fitness Corp./RFH options to purchase 1.6 million shares of LDC stock without receiving any true consideration in return, as the consideration cited in Exhibit "D" is merely a pretense without any evidentiary support in the Company's records.

27. As a result of Defendant's breaches of their duties to the Company and its shareholders, the Company and its shareholders have been damaged.

WHEREFORE Plaintiff, Scottie Pippen, on behalf of Learn.com, Inc., demands judgment against Defendants, Learn.com, Inc., James Riley, and J.W. Ray, for damages, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

DATED this 4 day of November, 2008.

VERIFIED BY:


SCOTTIE PIPPEN

Respectfully Submitted,

RICHMAN GREER, P.A.

Attorneys for Plaintiff

One Clearlake Centre – Suite 1504

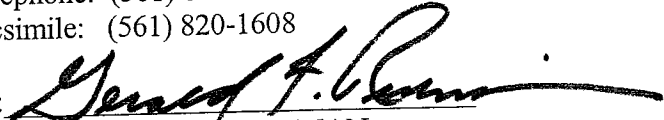
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