

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE – NASHVILLE DIVISION**

IN RE:)	
)	
1Point Solutions, LLC)	Case No. 06-05400-KL3-11
Barry R. Stokes)	Case No. 06-05898-KL3-11
)	Chapter 11
Debtors.)	Judge Keith M. Lundin
)	Administratively Consolidated
)	Under Case No. 06-05400-KL3-11
)	
)	
John C. McLemore, Trustee)	
)	
Plaintiff,)	
)	Ad. Pro No. 307-0283A
v.)	
)	
Regions Bank, as Successor in Interest by)	
Merger to AmSouth Bank, and)	
Mid-Atlantic Capital Corporation,)	
)	
Defendants.)	
)	

**DEFENDANT MID-ATLANTIC CAPITAL CORPORATION’S
MOTION TO DISMISS PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE 7012(b)**

Mid-Atlantic Capital Corporation (“MACC”) respectfully moves to dismiss Trustee’s Complaint pursuant to Rule 7012(b) of the Federal Rules of Bankruptcy Procedure for the reasons stated in the accompanying Brief In Support Of Defendant Mid-Atlantic Capital Corporation’s Motion To Dismiss For Failure To State A Claim Upon Which Relief Can Be Granted (“Brief”). As explained in the Brief, the Trustee does not have standing to bring the claims. The Trustee is also barred by the doctrine of *in pari delicto* from asserting any claims against MACC. Additionally, the Trustee’s ERISA claims must fail as a matter of law.

WHEREFORE, MACC respectfully requests the Court dismiss the Trustee's Complaint against MACC and grant such other relief as may be necessary and appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2007, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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