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December 15, 2006

John Johnson, Esq.
Johnson Law Firm
1000 Any Street
Minneapolis, MN 55402

Re: ***John Smith v. National Markets, Inc., et al.***

Court File No.: 99-CV-99-9999

Our File No.: 55555-55

Dear Mr. Johnson:

You have asked me to review documents and testimony in the above-referenced matter to calculate to a reasonable degree the amount of a performance bonus to which John Smith would have been entitled to be paid for the years 2003 through 2006. My calculations are based on my expertise, experience, the formula provided by Mr. Smith in his deposition testimony, and various financial records provided to me.

In addition, you have asked me for an opinion, based on my experience and professional expertise, as to whether the compensation structure offered to Mr. Smith as well as his own tax records supports an inference that he held an ownership interest in National Markets, Inc., or whether he was a partner with National Markets, Inc.

I have reviewed the following documents in connection with preparing this expert report:

- (1) Excerpts of the deposition of John Smith;
- (2) Certificate of Incorporation for National Markets, Inc.;
- (3) Articles of Incorporation of National Markets, Inc.;
- (4) Payroll Records for John Smith for 2002, 2003, and 2004;
- (5) Jane Jones W-2s for 2003, 2004, and 2005;
- (6) Smith's tax records for 2002, 2003, 2004, and 2005; and
- (7) National Markets Comparative Statements of Income.

These opinions may change as new information is provided to me.

First, I note that National Markets, Inc. is a corporation. A corporation may elect to be taxed as an S Corporation if it is a domestic corporation with no more than 75 shareholders, each of the shareholders are individuals, estates or certain trusts, and the corporation has only one class of stock. Although an S Corporation does not pay corporate income tax, the income and expenses of the corporation are passed through to each shareholder in his or her pro rata share. Each shareholder receives a separate schedule from the corporation called a Schedule K-1, wherein the corporation identifies to its shareholders each item of the corporation's income and deductions allocated to that shareholder.

The income and expenses reflected on the shareholder's Schedule K-1 are reported on the shareholder's individual tax return. Further, an S Corporation identifies its shareholders on its corporate tax filing.

Similarly, a partnership does not pay tax, but its income and deductions are allocated among the partners and reported on the personal tax returns of the partners. The partnership provides a Schedule K-1 to each partner where the partnership reports the amount of each item of partnership income and deduction that is allocated to that partner. The income and deductions reflected on the partner's Schedule K-1 must be reported on his or her individual tax return.

Based on my review of the corporate records of National Markets, Inc., National Markets, Inc. is a corporation that has elected to be taxed as an S Corporation since its date of incorporation. There are two shareholders of National Markets, Inc., and each owns 50% of the stock of National Markets, Inc. These shareholders are John L. Jones and Jane R. Jones. Consistent with the rules of Subchapter S of the Internal Revenue Code, each year Mr. Jones and Mrs. Jones received a Schedule K-1 stating the amount to be allocated to each as an owner of 50% of the stock of National Markets, Inc. The income and expenses reflected on Mr. Smith's Schedule K-1 and Mrs. Smith's Schedule K-1 were reported on their individual tax returns.

There is no evidence in the information provided to me that Mr. Smith was a shareholder of National Markets, Inc. In fact, tax filings related to National Markets, Inc., Mr. and Mrs. Jones, and John Smith indicate that Mr. Smith was neither a shareholder nor a partner. Rather, his income from working at National Markets, Inc. was reported as employee earnings on Form W-2s.

This reporting structure is inconsistent with ownership or partnership. In fact, had the parties intended Mr. Smith to be a partner in the enterprise, his bonus would have been reported on a Schedule K-1, and Mr. Smith would have reported this portion of his income as self-employed earnings or Guaranteed Payments also subject to self-employment tax.

Moreover, that Mr. Smith received a bonus that was calculated in part from store profits does not support that he was an owner or partner of National Markets, Inc. or with Mr. or Mrs. Jones. In my experience in preparing personal and corporate tax returns for more than 20 years, employees, particularly store managers, often receive a bonus based on store profits as one component of their employment compensation. Further, it is my experience that bonuses awarded to employees are discretionary and often vary from year-to-year, or may cease as a component of compensation. This can often be the case with owners of more than one Franchise activity.

Based on my review of the information related to this case, I do not believe that Mr. Smith was an owner or partner entitled to bonuses or continued employment at National Markets, Inc. Even though Mr. Smith may not be entitled to bonuses for the years 2004, 2005, 2006, and in the future, you have asked for my opinion as to what those bonuses would be, had they been calculated using the formulas previously applied by the parties. Attached document titled Exhibit A contains my calculations to a reasonable degree, the amount of a performance bonus to which John Smith would have been entitled to be paid for the years 2003 through 2006.

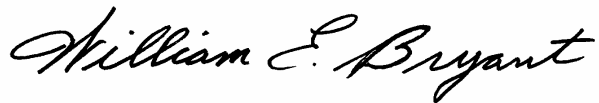
I have reviewed Dr. David D. Jones's opinion regarding Mr. Smith's economic loss due to his employment dispute with National Markets, Inc. and Mr. and Mrs. Jones. I have the following comments on that report:

1. My experience in calculating the economic loss of future earnings thru retirement age, have been only in those cases that involved accidental death or extreme physical impairment due to injury. That is not the case here. Mr. Smith still has the physical capacity and opportunity to continue working.
2. Mr. Smith still has the opportunity to be gainfully employed, in which case he could find other employment and thereby actually improve his overall economic condition. Therefore, no "Alternative Earnings" column would be necessary as an offset.
3. There is no guarantee that past historical performance is a predictor of future economic earnings. There are unknown economic factors beyond our control, such as competition or economic recession that could adversely affect future earnings.
4. Generally, the economic forecasts that I have prepared state the figures in Real Constant Dollars. In other words, there is no adjustment for inflation, or present value discount of future earnings.
5. The only increase that would apply in this economic forecast are possible trend increases of actual performance, based upon historical records. In reviewing the past Performance Bonuses paid, I do not see such an upward predictable trend.

I have also attached a copy of my curriculum vitae for your review and disclosure. My hourly billing rate for all work performed is \$150.00.

Please do not hesitate to contact me if you have any questions about the opinions contained herein, or in the attached Exhibit A.

Sincerely,



William E. Bryant, CPA, CVA

Attachments: Exhibit A

Cc File

Expert Report - Smith

John Smith vs National Markets: Calculation of Performance Bonus

Performance Bonus: The Bonus paid in a given year is based upon a formula applied to the economic activity of the prior year. For example, the Bonus paid in 2003 was based upon the 2002 economic activity (per Deposition and Worksheets).

Economic Activity for Year:	2003	2004	2005	
1 Net Profit or Loss (Per Accountant's Compilation)	\$ (13,889)	\$ (640)	\$ (29,737)	(A)
2 Addback: Jones Officer Salary	\$ 274,500	\$ 257,500	\$ 237,250	
Less Base Floor of \$107,760	\$ 107,760	\$ 107,760	\$ 107,760	
Equals Addback Amount	\$ 166,740	\$ 149,740	\$ 129,490	← Plus Addbacks
3 Addback: Jane Jones Capital Exp: Roof Repair	\$ 42,077	\$ 44,558	\$ 46,152	←
4 Addback: Rent Override	\$ 37,712	\$ 39,032	\$ 40,738	←
Sub-Total Addbacks	\$ 246,529	\$ 233,330	\$ 216,380	(B) Sub-Total
Equals: Bonus Gross Profit Income (A + B = C)	\$ 232,640	\$ 232,690	\$ 186,643	(C) Equals
Times Bonus Percentage of 5% (C times 5%)	\$ 11,632	\$ 11,635	\$ 9,332	← Times 5%
Equals: Performance Bonus to Pay	↓	↓	↓	
To be paid in the following Year	2004	2005	2006	← Paid in Year

Notes:

- 1 The above format to calculate the Bonus was taken from the Deposition and Worksheets, as agreed to by all parties.
- 2 This worksheet assumes a Bonus to be calculated from 2003 thru 2005, paid in the following year.
- 3 The Net Income figures were taken from the Accountant's Compilation Report.
- 4 The Jones Salary addback is the amount paid over \$107,760 - per Accountant's Compilation Report.
- 5 The wages paid to Jane Jones (per W-2), the daughter, is included as an addback for this calculation - per agreement.

John Smith vs National Markets: Calculation of Performance Bonus

Performance Bonus: The Bonus paid in a given year is based upon a formula applied to the economic activity of the prior year. For example, the Bonus paid in 2003 was based upon the 2002 economic activity (per Deposition and Worksheets).

Economic Activity for Year:	2003	2004	2005	2006	
1 Net Profit or Loss (Per Accountant's Compilation)	\$ (13,889)	\$ (640)	\$ (29,737)	\$ 35,279	(A)
2 Addback: Jones Officer Salary	\$ 274,500	\$ 257,500	\$ 237,250	\$ 238,000	
Less Base Floor of \$107,760	\$ 107,760	\$ 107,760	\$ 107,760	\$ 107,760	
Equals Addback Amount	\$ 166,740	\$ 149,740	\$ 129,490	\$ 130,240	← Plus Addbacks
3 Addback: Jane Jones Capital Exp: Roof Repair	\$ 42,077	\$ 44,558	\$ 46,152	\$ 47,745	←
4 Addback: Rent Override	\$ 37,712	\$ 39,032	\$ 40,738	\$ 38,206	←
Sub-Total Addbacks	<u>\$ 246,529</u>	<u>\$ 233,330</u>	<u>\$ 216,380</u>	<u>\$ 216,191</u>	(B) Sub-Total
Equals: Bonus Gross Profit Income (A + B = C)	<u>\$ 232,640</u>	<u>\$ 232,690</u>	<u>\$ 186,643</u>	<u>\$ 251,470</u>	(C) Equals
Times Bonus Percentage of 5% (C times 5%)	\$ 11,632	\$ 11,635	\$ 9,332	\$ 12,574	← Times 5%
Equals: Performance Bonus to Pay					
To be paid in the following Year	↓	↓	↓	↓	← Paid in Year
	2004	2005	2006	2007	

Notes:

- 1 The above format to calculate the Bonus was taken from the Deposition and Worksheets, as agreed to by all parties.
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