

ORIGINAL

DISTRICT COURT

FILED

CLARK COUNTY, NEVADA

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TED R BURKE; MICHAEL R. and)
LAURETTA L. KEHOE; JOHN BERTOLDO;)
PAUL BARNARD; EDDY KRAVETZ; JACKIE)
and FRED KRAVETZ; STEVEN FRANKS;)
PAULA MARIA BARNARD; PETER T. and)
LISA A. FREEMEN; LEON GOLDEN; C. A.)
MURFF; GERDA FERN BILLBE; BOB and)
ROBYN TRESKA; MICHAEL RANDOLPH, and)
FREDERICK WILLIS,)

CR...
CLERK OF THE COURT

CASE NO. A558629
DEPT. NO. XIII

Date: July 30, 2008
Time: 9:00 a.m.

Plaintiffs,

vs.

LARRY L. HAHN; HAHN'S WORLD OF
SURPLUS, INC.,

Defendant(s).

and

KOKOWEEF, INC.; EXPLORATIONS
INCORPORATION OF NEVADA,

Nominal Defendants.

DECISION

THIS MATTER having come before the Court on July 30, 2008 for evidentiary hearing regarding Nominal Defendant's [KOKOWEEFE, INC.] Renewed Motion to Require Security from Plaintiffs, and the Court having taken the matter under advisement after presentation of evidence and having now fully considered the evidence adduced and the post-hearing briefs submitted by counsel and being fully advised in the premises;

NOW, THEREFORE, the Court decides the submitted issues as

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CLERK OF THE COURT

MARK R. DENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

1 follows:

2 Under the relevant statute, NRS 41.520(3)(a), it is clear
3 that the burden is upon the moving Defendant to show that there is
4 "...no reasonable possibility that the prosecution of the cause of
5 action ... will benefit the corporation or its security holders."
6 Of course, this is a more stringent burden than would, by analogy,
7 be applicable on a preliminary injunction motion, which would
8 implicate "probability," not "possibility."
9

10 Even so, the Court is persuaded that Defendant has made
11 a *prima facie* showing on the point and that the same has not been
12 rebutted. Therefore, the Court will require a modicum of security
13 given what appears to be the likely consequences of the
14 continuation of this litigation on the well-being of the
15 corporation.

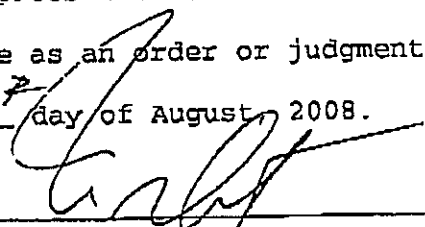
16 However, the Court is not persuaded that the security
17 required should be of the magnitude sought at this point by
18 Defendant. Instead, the Court will order security in the sum of
19 \$75,000.00. In this regard, the Court takes some comfort in the
20 language of subsection 4(b) of the statute which provides that the
21 Court can revisit its determination one way or the other as the
22 case progresses.
23

24 Counsel for Defendant is directed to promptly submit
25 proposed preliminary Findings of Fact and Conclusions of Law and a
26 proposed order consistent with the foregoing. Such proposed order
27

1 should provide for the posting of security within 15 days from and
2 after notice of entry of the order.

3 This Decision sets forth the Court's intended disposition
4 on the subject but anticipates further order of the Court to make
5 such disposition effective as an order or judgment.

6 DATED this 11th day of August, 2008.

7
8 
9 MARK R. DENTON
DISTRICT JUDGE

10

CERTIFICATE

11
12 I hereby certify that on the date filed, I placed a copy
13 of the foregoing in the attorney's folder in the Clerk's Office or
14 mailed a copy to:

15 NEIL J. BELLER, ESQ.

16 M. NELSON SEGEL, ESQ.

17 CLARY CANNON

18 Attn: PATRICK C. CLARY, ESQ.

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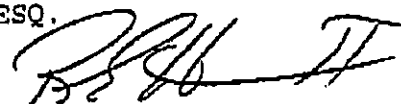
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for

LORRAINE TASHIRO
Judicial Executive Assistant
Dept. No. XIII