

CLERK OF THE COURT

MOT
ALEXANDER ROBERTSON, IV
State Bar No. 8642
JENNIFER L. TAYLOR
State Bar No. 5798
ROBERTSON & ASSOCIATES, LLP
401 N. Buffalo Dr., Suite 202
Las Vegas, Nevada 89145
Telephone: (702) 247-4661
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Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

LARRY H. HAHN, individually, and as
President and Treasurer of Kokoweef, Inc., and
former President and Treasurer of Explorations
Incorporated of Nevada; HAHN'S WORLD OF
SURPLUS, INC., a Nevada corporation;
PATRICK C. CLARY, an individual; DOES 1
through 100, inclusive;

Defendants,

and

KOKOWEEF, INC., a Nevada corporation;
EXPLORATIONS INCORPORATED OF
NEVADA, a dissolved corporation,

Nominal Defendants.

CASE NO. A558629

DEPT: XI

[ELECTRONIC FILING CASE]

MOTION FOR SANCTIONS; AND EX
PARTE APPLICATION FOR ORDER
SHORTENING TIME

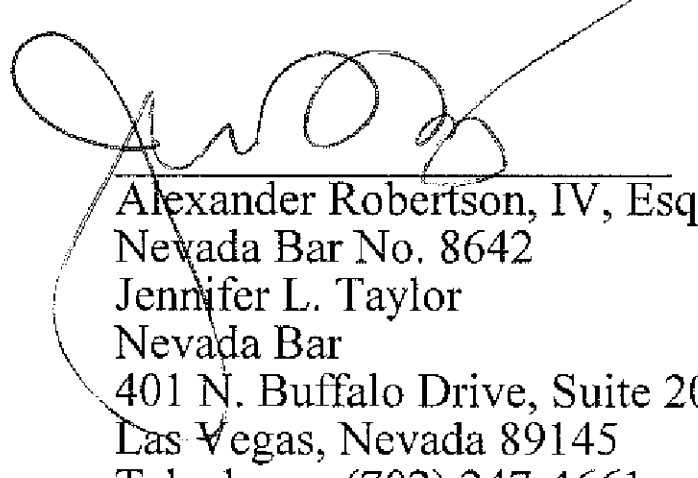
DATE OF HEARING:
TIME OF HEARING:

**FILE WITH
MASTER CALENDAR**

1 Plaintiffs Ted R. Burke; Michael R. and Laretta L. Kehoe; John Bertoldo; Paul Barnard;
2 Eddy Kravetz; Jackie and Fred Kravetz; Steven Franks; Paula Maria Barnard; Leon Golden; C.A.
3 Murff; Gerda Fern Billbe; Bob and Robyn Treska; Michael Randolph and Frederick Willis
4 (hereinafter collectively referred to as "Plaintiffs"), by and through their undersigned counsel of
5 record, Robertson & Associates LLP, hereby move this court to strike the Supplement Report of
6 Sharon McNair served on August 9, 2011 and to assess sanctions against Defendants pursuant to
7 to NRCP Rule 37. Plaintiffs further request that this Motion be heard on an Order Shortening
8 Time to August 30, 2011, at which time other pending Motions are set to be heard by this Court.
9 This Motion is made and based upon the points and authorities submitted herewith, NRCP Rule
10 37, oral argument of counsel, and the pleadings and papers on file herein.

11
12 Dated August 12, 2011

ROBERTSON & ASSOCIATES, LLP

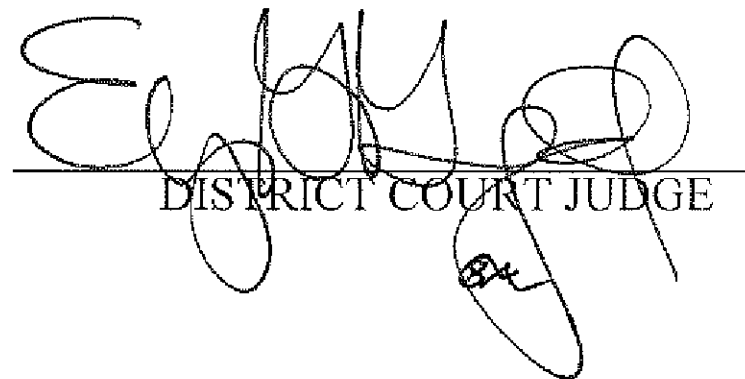
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16 Alexander Robertson, IV, Esq.
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1 **ORDER SHORTENING TIME**


2
3 It appearing to the satisfaction of the Court, and good cause appearing therefore,
4 It is hereby ORDERED that the foregoing MOTION TO PRECLUDE AND STRIKE
5 SUPPLEMENTAL REPORT OF SHARON MCNAIR, FOR SANCTIONS AND ORDER
6 SHORTENING TIME shall be heard on the 30th day of August, 2011 at the hour of 9:00 a.m. in
7 Department XI of the above-entitled court.

8 IT IS FURTHER ORDERED that the time for Defendants to respond to this Motion is
9 shortened to August , 2011 and the time for Plaintiffs to reply is shortened to August
10 2011.

11 IT IS SO ORDERED this 15 day of August, 2011.
12

13 
14 DISTRICT COURT JUDGE
15

16 Submitted by:
17 ROBERTSON & ASSOCIATES, LLP

18 
19 Jennifer L. Taylor
20 Nevada Bar No. 5798
21 401 N. Buffalo Drive, Suite 202
22 Las Vegas, Nevada 89145
23 Telephone: (702) 247-4661
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**AFFIDAVIT OF JENNIFER L. TAYLOR, ESQ. IN SUPPORT OF
ORDER SHORTENING TIME**

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

JENNIFER L. TAYLOR, ESQ., being first duly sworn, deposes and states that she is an attorney licensed to practice in all courts in the State of Nevada, that she is counsel for Plaintiffs that she has personal knowledge of the facts stated herein, except for those stated and made upon information and belief, wherein so indicated.

1. That Affiant is an attorney duly licensed and practicing law in the County of Clark, State of Nevada;

2. That Affiant represents Plaintiffs in the above-entitled matter;

3. That this Affidavit is made in support of the Plaintiffs' Motion to Preclude and Strike the Supplemental Report of Sharon McNair served on August 5, 2011 (hereafter the "Motion").

4. That trial in this matter is scheduled for September 6, 2011.

5. That based upon that trial date, this motion cannot be heard in the ordinary course.

6. That three other motions are currently scheduled for hearing on August 30, 2011.

7. That this Affidavit and Order Shortening Time, along with the accompanying Motion is not being brought for any inappropriate reasons such as delay or harassment.

8. Plaintiffs only received McNair's untimely Supplemental Report on August 8, 2011, and therefore could not prepare this Motion by the August 5, 2011 deadline contemplated in the most recent Trial Scheduling Order.

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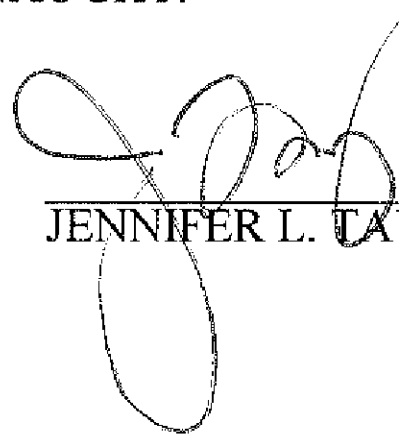
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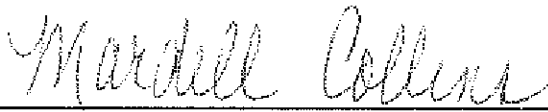
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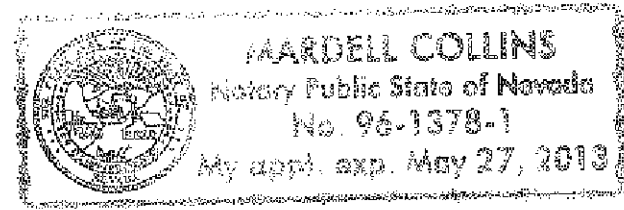
9. Further Affiant sayeth naught.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


JENNIFER L. TAYLOR

SUBSCRIBED AND SWORN to before
me this 12th day of August, 2011


NOTARY PUBLIC in and for said
County and State.



1 I.

2 INTRODUCTION

3 The Court is well aware of the tortured history of discovery in this case. Plaintiffs' have
4 had to incur, time and time again, attorney's fees to address the rank gamesmanship and
5 unethical tactics by Defendants. And, once again, Plaintiffs are forced to incur attorney's fees
6 because of Defendants' flagrant disregard of Nevada Court Rules, discovery deadlines, court
7 directives, and stipulations between counsel. On August 5, 2011, a full month after Defendants'
8 initial report from forensic accountant, Sharon McNair, was served on Plaintiffs, Defendants
9 served a Supplemental Rebuttal Report dated August 5, 2011. It was received by Plaintiffs on
10 August 8, 2011. This "Supplemental Rebuttal Report", which utterly rewrites the underlying
11 report, was produced without permission by this Court to do so, so long after expert deadlines
12 had passed.

13 Defendants' ongoing discovery abuses continue because they have not been sanctioned
14 for their conduct. The only way to stop Defendants' ongoing discovery abuses is for this Court
15 to finally issue sanctions against Defendants Kokoweef and Larry Hahn, and, more importantly,
16 the perpetrators of the discovery abuse, their counsel, Patrick C. Clary and M. Nelson Segel.
17 Accordingly, Defendants should be precluded from using the "Supplemental Rebuttal Report",
18 the report should be stricken from Defendants' list of exhibits to be used at trial, fees should be
19 awarded against Defendants and their counsel, and Defendants' answers on issues related to the
20 report of Sharon McNair be stricken. If the Court is not inclined to strike, as requested, then
21 significant monetary sanctions should be awarded in Plaintiffs' favor. This Court needs to finally
22 say, "enough is enough", and issue substantive sanctions to curb Defendants' abuses.

23 II.

24 STATEMENT OF FACTS

25 The time for Defendants' to produce rebuttal reports under the current Verified
26 Complaint
27
28

1 has long since passed. That deadline was June 27, 2011. See Transcript of Proceedings from the
2 June 21, 2011 hearing, a true and correct copy of which is attached hereto as Ex. 1, at 20:16.

3 No good deed goes unpunished, and despite agreeing to allow extra time to Defendants to
4 produce McNair's Rebuttal Report, Defendants have again taken advantage of Plaintiffs' futile
5 attempts at eliciting professionalism from Defendants. On June 20, 2011, Plaintiffs' provided
6 Defendants with an extension of time to produce the Rebuttal report of their joint forensic expert,
7 Sharon McNair, on July 1, rather than on June 27, 2011. See emails attached hereto as Ex. 2.

8 Then, on June 30, 2011, counsel for Defendants sent an email requesting yet another
9 extension for the completion of their rebuttal report by Ms. McNair. See email attached hereto as
10 Ex. 3. Plaintiffs' counsel again granted the requested extension to extend the time to serve Ms.
11 McNair's report on July 5, 2011. See emails attached hereto as Exhibit 4. As agreed upon, Ms.
12 McNair's Rebuttal Report was served on July 5, 2011. That initial Rebuttal report found that in
13 excess of \$200,000.00 of Kokoweef expenditures were unsubstantiated.

14 The deadline to file Motions in this matter was August 5, 2011. On that date, counsel for
15 Defendants put in the mail a so-called "Supplemental Rebuttal Report" of Sharon McNair.
16 See Exhibit 5. It was not received in Plaintiffs' office until Monday, August 8, 2011. Counsel
17 for Defendants never contacted counsel for Plaintiffs to request leave to produce such a
18 supplement. Counsel for Defendants did not receive leave from this Court to produce such a
19 supplement. Instead, counsel for Defendants simply served this untimely, fugitive, and so-called
20 "Supplemental Rebuttal Report", which drastically alters the opinions in Ms. McNair's July 5,
21 2011 report. This prejudicial action has caused Plaintiffs to incur additional fees and costs, both
22 in filing this motion and, should this report be permitted to stand, expert costs for reviewing and
23 analyzing the report in anticipation of trial.

24 This is just the latest in Defendants' ongoing discovery "bait and switch", earlier
25 instances of which are the subject of Plaintiffs' pending Motion for Sanctions. Plaintiffs'
26 forensic expert, Talon Stringham, has met all the deadlines imposed by this Court, despite the
27 moving target of documents from Defendants. The latest movement of this target was when
28 Defendants produced a disk containing more than 6,000 pages in March 2011. Plaintiffs' expert

1 timely produced his Supplemental Report on May 20, 2011, and Defendants' experts should have
2 been able to comply with the Court's deadlines for production of a Rebuttal report. After all, the
3 Kokoweef and/or EIN documents that were the basis of any rebuttal report have been in the
4 possession of Defendants throughout this litigation. Further, after Mr. Stringham produced his
5 initial report in January 2011, Ms. McNair was given multiple extensions of time, to complete
6 her report, including an extension from February to May 2011 because she was too busy with
7 "tax" season to complete McNair's Rebuttal report, and from May to late June 2011 because of
8 Defendants' "newly discovered box of documents".

10 III.

11 ARGUMENT

12 The so-called "Supplemental Rebuttal Report of Sharon McNair" is just the latest in
13 Defendants ongoing actions which flout the Nevada Rules of Civil Procedure, the Eighth Judicial
14 District Court Rules, the Nevada Rules of Professional Conduct, this Court's Orders and
15 Directives and Stipulated agreements between counsel. Simply put, enough is enough!

16 A. No grounds exist to permit the untimely "Supplemental Rebuttal Report" 17 of Sharon McNair.

18 Pursuant to this Court's orders, and agreements between counsel, Defendants were to
19 produce their forensic accounting report no later than July 5, 2011. The proper method for
20 seeking to enlarge that time would have been to file a motion pursuant to EDCR 2.25 seeking
21 such an extension.

22 EDCR 2.25(a) additionally requires that "[a] request for extension made after the
23 expiration of the specified period shall not be granted unless the moving party, attorney or other
24 person demonstrates that the failure to act was the result of excusable neglect." Defendants'
25 have not timely requested an extension, have not demonstrated excusable neglect, and have only
26 showed continued bad faith in the discovery process.

27 ////

28 ////

1 **B. Discovery Sanctions warrant precluding and striking McNair's so-called "Supplemental**
2 **Rebuttal Report."**

3 Pursuant to NRCP 37, Defendants ongoing discovery abuses, including this most recent
4 production of an untimely "Supplemental Rebuttal Report", warrant sanctions, including, at a
5 minimum, precluding and striking the report, and expenses awarded to Plaintiffs, and up to
6 striking Defendants' answers on all issues related to the subject matter of Ms. McNair's report.
7 NRCP Rule 37 (b) (2) provides in pertinent part:

8 Sanctions--Party. If a party or an officer, director, or managing
9 agent of a party or a person designated under Rule 30(b)(6) or
10 31(a) to testify on behalf of a party fails to obey an order to provide
11 or permit discovery, including an order made under subdivision (a)
12 of this rule or Rule 35, or if a party fails to obey an order entered
under Rules 16, 16.1, and 16.2, the court in which the action is
pending may make such orders in regard to the failure as are just,
and among others the following:

13 (A) An order that the matters regarding which the order was
14 made or any other designated facts shall be taken to be established
for the purposes of the action in accordance with the claim of the
party obtaining the order;

15 (B) An order refusing to allow the disobedient party to support
16 or oppose designated claims or defenses, or prohibiting that party
from introducing designated matters in evidence;

17 (C) An order striking out pleadings or parts thereof, or staying
18 further proceedings until the order is obeyed, or dismissing the
19 action or proceeding or any part thereof, or rendering a judgment
by default against the disobedient party;

20 In lieu of any of the foregoing orders or in addition thereto, the
21 court shall require the party failing to obey the order or the attorney
22 advising that party or both to pay the reasonable expenses,
including attorney's fees, caused by the failure, unless the court
finds that the failure was substantially justified or that other
circumstances make an award of expenses unjust. NRCP Rule 37.

23 Defendants' audacity in producing this report one month after the deadline for the production of
24 McNair's Rebuttal Report definitively demonstrates a continuing flagrant disregard for the laws
25 and rules of the State, Rules of the Supreme Court and Orders of This Honorable Court and
26 reveals an ongoing intent to hamper and prejudice the administration of justice.
27
28

1 In Foster v. Dingwall, 227 P.3d 1042 (Nev. 2010) entries of default were upheld where
2 litigants were unresponsive and engaged in repeated and continued abusive litigation practices
3 that caused interminable delays. The Court stated: "In light of appellants' repeated and continued
4 abuses, the policy of adjudicating cases on the merits would not have been furthered in this case,
5 and the ultimate sanctions were necessary to demonstrate to future litigants that they are not free
6 to act with wayward disregard of a court's orders." Foster, 227 P.3d at 1049.

7 The degree of willfulness of the offending party in the instant case is well established.
8 Defendants continually flaunt the Rules of Civil Procedure and the Orders of this Court causing
9 Plaintiffs to have to scramble to address each infraction at the cost of thousands of dollars.
10 Defendants are engaging in these tactics because they are trying to "run Plaintiff out of money",
11 as previously testified in affidavit by Paul and Paula Bernard, before this cause can be brought to
12 trial. Plaintiffs implore this Court to finally halt this behavior by precluding and striking the
13 Supplemental Report of Sharon McNair and by issuing further sanctions in such a way as to put a
14 stop to the continuing and severe abuses by Defendants.

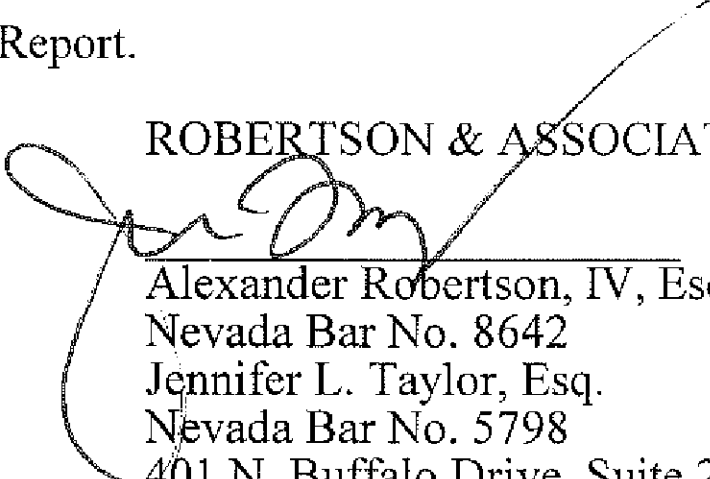
15 IV.

16 CONCLUSION

17 Based upon the foregoing, Plaintiffs respectfully request that the untimely Supplemental
18 Report of Sharon McNair be precluded and stricken from presentation at the time of trial, that
19 further sanctions be assessed Defendants Kokoweef Inc. and Larry C. Hahn, and their counsel
20 Patrick C. Clary and M. Nelson Segel, including an award of monetary sanctions against
21 Defendants and their counsel, and striking the answers of Defendants in relation to the issues
22 raised in the McNair Supplemental Rebuttal Report.

23 Dated August 12, 2011

ROBERTSON & ASSOCIATES, LLP

24 
25 Alexander Robertson, IV, Esq.
26 Nevada Bar No. 8642
27 Jennifer L. Taylor, Esq.
28 Nevada Bar No. 5798
401 N. Buffalo Drive, Suite 202
Las Vegas, Nevada 89145
Telephone: (702) 247-4661
Facsimile: (702) 247-6227

1
2 **AFFIDAVIT OF JENNIFER L. TAYLOR, ESQ.**
3 **IN SUPPORT OF MOTION TO PRECLUDE AND STRIKE UNTIMELY**
4 **SUPPLEMENTAL REPORT OF SHARON MCNAIR**

4 STATE OF NEVADA)
5 COUNTY OF CLARK) ss:

6
7 JENNIFER L. TAYLOR, ESQ., being first duly sworn, deposes and states that she is an
8 attorney licensed to practice in all courts in the State of Nevada, that she is counsel for Plaintiffs
9 that she has personal knowledge of the facts stated herein, except for those stated and made upon
10 information and belief, wherein so indicated.

11 1. This affidavit is made in compliance with EDCR 2.34.

12 2. On August 8, 2011, we received in our office a document entitled Supplemental
13 Rebuttal Report of McNair & Associates. McNair & Associates and Sharon McNair are
14 Defendants' joint forensic experts.

15 3. This Supplemental Rebuttal Report was served one month after the deadline for
16 Defendants to serve Rebuttal Reports.

17 4. Defendants' counsel failed to confer with me regarding this Supplemental
18 Rebuttal Report despite prior communications from Defendants regarding extensions of time for
19 the production of the Defendants' Rebuttal Reports. In June and July of 2011, Defendants'
20 counsel, Nelson Segel, sent numerous emails to me requesting additional time to serve Ms.
21 McNair's report, which I stipulated to as set out in the emails attached hereto.

22 5. Defendants' counsel did not attempt to confer with me regarding this untimely so-
23 called Supplemental Rebuttal Report and did not file a motion with this Court to enlarge the time
24 for service of the Supplemental Rebuttal Report as required by EDCR 2.25.

25 6. I did not conduct a personal or telephone conference with counsel for Defendants'
26 as required by EDCR 2.34(d). My reasons that the required conference was not possible are as
27 follows. First, given the trial date, the pre-trial discovery requirements and the pending Motions
28 set for August 30, 2011, the same date I have requested a hearing for this Motion, there was not

1 sufficient time. Second, given the fact that counsel for Defendants did not comply with any of
2 the rules governing the production of this Supplemental Rebuttal Report, nothing could have
3 been resolved in such a conference, and additional sums would have to have been incurred by my
4 clients and time would have been lost. Third, as this Court is well aware, my relationship with
5 Defendants' counsel has degenerated so greatly that we cannot agree on very much of anything,
6 and the purpose of such a conference would not have been achieved prior to this motion having
7 to be brought before this Court.

8 FURTHER YOUR AFFIANT SAYETH NAUGHT.

9
10 
11 JENNIFER L. TAYLOR
12

13 SUBSCRIBED AND SWORN to before
14 me this 12th day of August, 2011
15
16

17 
18 NOTARY PUBLIC in and for said
19 County and State.
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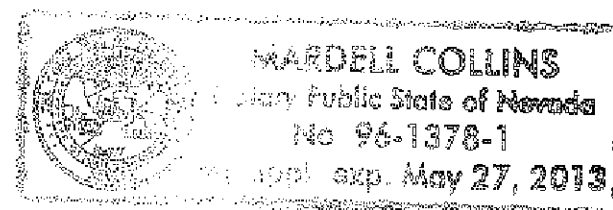


EXHIBIT “1”

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Alan D. Schuman
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

TED BURKE, MICHAEL KEHOE,
et al,

Plaintiffs,

vs.

LARRY HAHN, HAHN'S WORLD OF
SURPLUS INC, et al,

Defendants.

CASE NO. A558629
DEPT NO. XI

TRANSCRIPT OF
PROCEEDINGS

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT TO CONFORM TO THE EVIDENCE
PLAINTIFF'S MOTION TO EXONERATE BOND; AND EX PARTE
APPLICATION FOR ORDER SHORTENING TIME

TUESDAY, JUNE 7, 2011

APPEARANCES:

For the Plaintiffs: JENNIFER L. TAYLOR, ESQ.

For Defendant Clary: PATRICK C. CLARY, ESQ.

For Defendant Hahn: M. NELSON SEGEL, ESQ.

RECORDED BY JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR REPORTING, INC.

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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

TED BURKE, MICHAEL KEHOE,
et al,

Plaintiffs,

vs.

LARRY HAHN, HAHN'S WORLD OF
SURPLUS INC, et al,

Defendants.

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APPLICATION FOR ORDER SHORTENING TIME**

TUESDAY, JUNE 7, 2011

APPEARANCES:

For the Plaintiffs: JENNIFER L. TAYLOR, ESQ.

For Defendant Clary: PATRICK C. CLARY, ESQ.

For Defendant Hahn: M. NELSON SEGEL, ESQ.

RECORDED BY JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR REPORTING, INC.

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 7, 2011, 9:24 A.M.

2 (Court was called to order.)

3 THE COURT: Good morning. Is there anyone who's
4 appearing on a matter on a pro bono basis?

5 Is there anyone with a stipulated or agreed matter?

6 Is there anybody who wants to come back another day?

7 All right. Can we go to Burke versus Hahn.

8 MS. TAYLOR: Good morning, Your Honor. I'm Jennifer
9 Taylor on behalf of plaintiffs.

10 MR. SEGEL: I'm Nelson Segel on behalf of Larry Hahn
11 and Hahn's World of Surplus. Mr. Hahn's also present at the
12 table.

13 MR. CLARY: Patrick Clary on behalf of Kokoweef, Inc.
14 and myself.

15 Okay. Let's start with the motion for leave to file
16 a second amended complaint, and I am striking from the
17 request, to conform to the evidence, because that is only a
18 request that is properly made during the trial. You're just
19 asking me to amend the complaint based on how things have
20 happened.

21 MR. CLARY: Your Honor, I couldn't hear you. I'm
22 sorry.

23 THE COURT: Sorry, Mr. Clary. I told Ms. Taylor that
24 I'm not going to entertain a motion that is to conform to the
25 evidence, because it's premature. But I am certainly going to

KARR REPORTING, INC.

1 let her move to amend the complaint based on what's happened
2 during discovery.

3 So with that understanding, Ms. Taylor, it's your
4 motion.

5 MS. TAYLOR: What has happened during discovery, Your
6 Honor --

7 MR. CLARY: What are we arguing?

8 THE COURT: We're arguing her motion to amend the
9 complaint.

10 MR. CLARY: Oh. I thought you just said you were
11 going to grant it.

12 THE COURT: No. I said I was --

13 MR. CLARY: Well, maybe I better tune these up a
14 little bit.

15 (Pause in proceedings.)

16 MR. CLARY: If I might just interject the comment,
17 since I've already interrupted, that, Your Honor, that her
18 motion is to move -- her motion was based upon that premise,
19 so you should deny it.

20 THE COURT: I understand your position, Mr. Clary.

21 MR. CLARY: Thank you.

22 THE COURT: Ms. Taylor, would you like to argue why
23 you should be permitted to amend the complaint based on the
24 discovery that's occurred?

25 MS. TAYLOR: Yes, Your Honor. I would like --

1 plaintiffs have requested that we be allowed to amend our
2 complaint as proposed in the exhibits to our motion, which
3 would be the proposed second amended complaint. It would add
4 a cause of action under NRS 90.660, which talks about civil
5 remedies for violations of securities laws under NRS
6 Statute 90.

7 The reason that we bring it at this point, Your
8 Honor, is because as you know, we've been trying, we've worked
9 for years to try to get the full scope of Kokoweef documents.
10 One of the allegations in -- two sets of the allegations in
11 the first amended complaint related to securities violations.

12 One was a statute saying that there were violations
13 that Judge Denton dismissed because he viewed it as only a
14 statutory scheme that the administrator of the State of
15 Nevada, department of -- the secretary of state could bring,
16 and it was not something that a private party could bring. So
17 he dismissed that one.

18 Then we had another cause of action for sales of
19 securities based on fraudulent inducement, and he reduce -- he
20 dismissed that one. But that one was not dismissed with
21 prejudice. Once we finally obtained the shareholder records
22 late in 2010, we were able to go through the documents, have
23 our experts take a look at them and see if any securities
24 violations did in fact exist, and he found that there were
25 violations under the securities statutes for selling shares in

1 excess of 25 or more in any 12-month period to people within
2 the state of Nevada. So that's what we were able to discover.

3 Since the first batch of shareholder documents came
4 in, we've been in front of you several times talking about
5 either we're missing documents that Kokoweef or the Hahn
6 defendants had promised to produce, or as you know, in
7 February we had another set of documents that the defendants
8 came in and said to you we have just found these documents,
9 we're so apologetic, but we need to produce these to be able
10 to make sure the experts can have a full set of documents to
11 respond.

12 So we had our securities expert go back through and
13 make sure there were no bank records, no checks, nothing else
14 that indicated sales of securities to shareholders that might
15 fall within that set of violations, purchases back from
16 sharehold -- from return of investment from the defendants to
17 those shareholders, but we could get an accurate count.

18 And so at that point we determined that based on the
19 discovery, based on the documents that had been produced, a
20 claim under 90.660 was warranted, and it was warranted against
21 both Mr. Clary and Larry Hahn and Kokoweef as the issuer and
22 as two parties who have control over the issuer, and that is
23 the basis for our motion to amend.

24 THE COURT: Thank you.

25 MS. TAYLOR: Thank you, Your Honor.

KARR REPORTING, INC.

1 THE COURT: Mr. Clary.

2 MR. CLARY: Yes. Well, first of all, Your Honor, I
3 want to state that the newly discovered evidence that became
4 so controversial in this case had nothing to do with
5 stockholder records. These attorneys, when they came in the
6 case and filed their first amended complaint, alleged in one
7 of the causes of action that Ms. Taylor has just mentioned,
8 NRS 90.660 -- they knew about 90.660 back then.

9 They had all the stockholder records long before
10 Mr. Appenbreak [phonetic] gave his report, and they should
11 have known that 90.660 was -- was there and what it meant.
12 They advertised in their website that they were securities
13 lawyers. They're supposed to know this stuff. And you look
14 at the first amended complaint and there's 90.660. They knew
15 this all along.

16 And they wait until -- what has happened, if you --
17 if you grant this amended complaint under 15A, then it will
18 relate back. If it relates back, then the statute of
19 limitations won't apply. If you don't grant it, the statute
20 of limitations has run, and they can't file a new case under
21 this. It's too late. If it's not the statute of limitation,
22 then it slashes. This case is too far down the line.

23 Are we going to then rule out the discovery now on
24 this new claim, since we thought it was dead as a doornail,
25 now we've got to defend against it? It's untimely. It

1 shouldn't happen. And I just think that this is just a
2 further attempt to delay this case, and they finally realize
3 they made a mistake. Well, it's too late to correct it. It's
4 not fair. It's not fair to my clients, who have been
5 defending this case in good faith on the basis of what the
6 case was up to the point she filed this motion. Now they got
7 a brand new case, starting over again.

8 I just don't think it's the right thing to do. You
9 have discretion in this. You can exercise your discretion one
10 way or another, but I suggest that if you do -- now, if you do
11 decide in favor of it, then so be it. We'll have to defend
12 it. But I suggest that you should decide against granting it.

13 Now, one further point that she kind of sloughs over.
14 We have made -- we deliberately filed documents, served
15 documents on her. She revealed -- we did not reveal in our
16 moving papers, she revealed they were in the form of an offer
17 of judgment. They were also in the form that meets the
18 requirements of 60.690, which is the rescission offer.

19 We made the rescission offer; they didn't accept it.
20 We gave them an extension of time; they didn't accept it. The
21 time is over. The claim is over. You might as well not grant
22 it, because we're going to bring a motion to dismiss it if you
23 do, and I think you think you should dismiss it if you grant
24 it. So you know about it now. Why not forego all this
25 procedure and forget it.

1 Now, if you do grant it, I think you should only
2 grant it as to Burke, because we did not make the recision
3 offer to Burke. If you grant it as to Burke, I can live with
4 that. If you grant it as to the other defendants, I think
5 it's wrong.

6 THE COURT: I'm going to grant the motion --

7 MR. SEGEL: Your Honor, may I be heard? My client is
8 also being --

9 THE COURT: Sure.

10 MR. SEGEL: Thank you, Your Honor.

11 THE COURT: Since you only filed a joinder. It's
12 okay.

13 MR. SEGEL: Your Honor, I filed a joinder on an order
14 shortening time when I also had to deal with a motion I got
15 of 2:00 o'clock on Friday for today.

16 THE COURT: Yeah, but we're not to that one yet.

17 MR. SEGEL: I understand that, but that's why I
18 couldn't go anymore. Plus I had the annual shareholders
19 meeting on Sunday. It took my whole day.

20 MR. CLARY: Me too.

21 MR. SEGEL: So I spent -- from Friday until today
22 I've spent most of my time. Your Honor, I had a great
23 soliloquy that I was going to give, but I'll reserve --
24 because you took us first, I'll reserve that for the motion to
25 amend if we get an order from the last -- or motion for

1 rehearing, if we ever get an order from the last hearing.

2 I want to make one thing really clear. And again we
3 get these arguments that the defendants have been problem-some
4 [sic], difficult, have not provided information. That is
5 untrue. There is no question that Kokoweef has had issues
6 producing documentation. A request was made upon the Hahn
7 defendants. The Hahn defendants and I sat down with counsel
8 for the plaintiffs and we worked out what would be produced
9 and what wouldn't be produced. I produced it in the time
10 frame we set.

11 And they've never taken the COR's deposition. So
12 to -- I mean, the problem I'm having is that they're lumping
13 the Hahn defendants in with what Kokoweef does or doesn't do.
14 And I -- we're being prejudiced unfairly by that. We've
15 done -- because the Hahn defendants have done nothing
16 improper.

17 As to the motion to amend, this Court has the
18 discretion to grant the motion to amend. It will create
19 serious issues. There will be more pleading. I think that
20 we're going to have a problem. It was suggested in the motion
21 to amend that it isn't going to affect the trial date, it's
22 not going to affect what's going on.

23 I'll represent to this Court that I guarantee you
24 there will be pleadings we're going to be filing. There will
25 be things that are going to require further proceedings and

1 we'll address it at that time. But it -- to suggest that we
2 can go to trial in September if this Court doesn't have this
3 large case, but if we're going to court in September --

4 THE COURT: It hasn't been sent back yet.

5 MR. SEGEL: Okay. So I hadn't heard, but you just
6 never know. But if we do go in September, which we're
7 planning on doing and I'd prefer to do, it's not going to be
8 able to happen if we in fact have this amendment. And let me
9 explain a good reason why. I mean, we had Mr. Appenbreak's
10 deposition scheduled for, I think, the 19th of June is when
11 we --

12 MR. CLARY: 16th.

13 MR. SEGEL: The 16th. Mr. Clary's notes were
14 the 16th of June. I anticipate, once I take Mr. Appenbreak's
15 deposition there will be no [inaudible]. I mean, I think that
16 his positions are so out there that there -- that they're not
17 going to be meaningful.

18 And the most important issue is, so if he presently
19 has our complaint today, the only issue that may or may not
20 relate to securities, as you well know it's kind of out
21 there -- it's not very clear, at least the second -- the first
22 amended complaint is not very clear. The second's a little
23 bit better but not quite, is they allege negligent
24 misrepresentation. Damages are a requirement of negligent
25 misrepresentation. There are no damages.

1 As we -- as Mr. Robertson stated to this Court, we
2 don't want to give up our stock. We want the illegally issued
3 stock canceled and the legally issued stock reissued. We'll
4 address that at a later time as well. Whether this rescission
5 offer -- we did make a statutory 660, the -- Kokoweef made a
6 statutory 90.660 offer. It was not accepted.

7 If you look at the wherefore clause in the proposed
8 amended complaint, it wants the statutory damage under 660,
9 but it forgets that one major issue. You've got to give your
10 stock up. I don't have the quote for the section, but it says
11 something to the effect of upon delivery of the shares, these
12 are the damages you're entitled to. 660 is the civil
13 liability section of Chapter 90. 570, where they alleged a
14 sale of unregistered securities, gives a clause -- gives a
15 claim for relief under 660.

16 But 660 is just a remedy. They're not willing to
17 give up their stock. They don't have an action. Again, not
18 something that's heard on a motion to amend. We don't think
19 it is appropriate for the reason Mr. Clary stated. If the
20 Court was inclined to do so, I just want -- you know, it's
21 clear that we're not going to be able to go to trial in
22 September.

23 THE COURT: Okay. The motion to amend is granted,
24 however I anticipate that I will see a motion to dismiss on
25 the issues that were raised. I have not made a determination

1 whether it is moot to allow the amendment, but I am certainly
2 going to consider the issues raised on the dismissal issues,
3 especially the 90.660 issues, which may limit the number of
4 plaintiffs who will be able to be participating in that claim
5 for relief.

6 How long do you think it's going to take you to do
7 that, Mr. Clary?

8 MR. CLARY: [No audible response.]

9 MR. SEGEL: Your Honor, I think that once they
10 find --

11 Mr. -- did you hear what she said?

12 MR. CLARY: Yeah. I don't know. You know, I --
13 this -- believe it or not, this is, I feel, a case of
14 handling. I would like as much time as you would be willing
15 to give me.

16 THE COURT: Well, the only reason I'm asking is it
17 may have something to do with some deadlines that I'm going to
18 discuss because of an issue that was raised in the opposition,
19 that Mr. Segel raised on the motion to exonerate the bonds.
20 I'm just trying to figure out what my timing issues are,
21 because it sounds like there may be some other issues I have
22 to talk to you guys about. So if you're telling me you can't
23 tell me now, that's okay. I accept that.

24 MR. CLARY: Your Honor, that's --

25 THE COURT: Okay.

1 MR. CLARY: I'll try to live with the 20 days that I
2 have.

3 MR. SEGEL: Ten.

4 THE COURT: I understand.

5 MR. SEGEL: It's ten.

6 THE COURT: So can you get that filed in the next few
7 days?

8 MR. CLARY: I'm going to get it served too.

9 MS. TAYLOR: Your Honor, I can.

10 THE COURT: Well, she only has to serve it by mail,
11 since everybody's appeared already.

12 MR. CLARY: I know, but I -- but it's after -- I've
13 got to be served on me after it's, you know, after your order
14 is entered, I assume.

15 THE COURT: Sure. She has to file it and she can
16 either E serve it or mail it to you depending upon what the
17 service is required in here.

18 MR. CLARY: All right.

19 THE COURT: She doesn't have to send a process server
20 to serve an amended complaint when everybody's already --

21 MR. CLARY: Of course not. I wasn't suggesting that.

22 THE COURT: Okay. So you can get it on file pretty
23 quick --

24 MS. TAYLOR: Yes, Your Honor. Absolutely.

25 THE COURT: -- get the order over here? All right.

1 Thanks.

2 Let's go to your motion to exonerate the bond.

3 MR. SEGEL: Your Honor, just for clarification, would
4 you give us a time frame from the date of service until the
5 motion would be required?

6 THE COURT: The rule allows ten days.

7 MR. SEGEL: I understand. And Mr. Clary's -- is that
8 it?

9 THE COURT: The rule allows ten days.

10 MR. SEGEL: May we have 20 days? I'm going out of
11 town to see my granddaughter tomorrow, Your Honor. I won't be
12 back for at least a week, so.

13 THE COURT: Okay. Well, that's a good reason to go
14 out of town.

15 MR. SEGEL: I think that's the best reason in the
16 world.

17 THE COURT: Then that's all you had to tell me was
18 you needed more time because you had a family issue.

19 MR. SEGEL: Thank you, Your Honor.

20 THE COURT: Yes, you can have 20 days.

21 MR. SEGEL: Thank you.

22 MS. TAYLOR: Twenty days from the service.

23 THE COURT: All right. Let's go to the motion to
24 exonerate the bond.

25 MS. TAYLOR: And before I start, Your Honor, I just

1 want to say we are going to talk about deadlines, so then
2 something that Mr. Segel raised I can address later. I know.
3 That's okay. All right. Thank you, Your Honor.

4 Motion to exonerate bond. When this case was first
5 filed back in 2008, the defendants filed a motion to request
6 security under NRS 41.520. What that requires is a showing
7 from -- a showing by the corporation that there is no
8 reasonable possibility that the prosecution of the cause of
9 action alleged in the complaint against the moving party will
10 benefit the corporation or its security holders.

11 They had the hearing. We were not counsel of record
12 at that time. One of the things that happened and one of the
13 issues that Mr. Segel has raised -- although I'm a little
14 confused why Mr. Segel even filed an opposition, because the
15 motion for security has to do with the company, Mr. Clary's
16 client, as Mr. Segel has repeated over and over.

17 THE COURT: Let's just get past that. Okay.

18 MS. TAYLOR: Okay. I just wanted to make sure that
19 was on the record, Your Honor. One of the issues that they
20 raised was that it was a full evidentiary hearing.
21 Mr. Stringham [phonetic] had ample opportunity to look at all
22 the documents, and he had every single document that he could
23 have possibly needed, and there were no deficiencies in the
24 evidentiary hearing.

25 In fact, Mr. Stringham testified -- what happened

1 was, and again, I wasn't there, but there was Exhibit 1 that
2 was produced the day of the hearing. And Mr. Stringham, when
3 asked, said -- when asked about the documents, he said that
4 there were still holes in the documentation that's been
5 provided. "Including the documentation that was provided
6 today?" He said, "Yes. I haven't had a chance to review that
7 documentation. I flipped through it for two seconds.

8 "What does it appear to be?

9 "Checks and receipts.

10 "Yeah, it appears to be checks," this is the
11 question, "with backup receipts." And again Mr. Stringham
12 says, "I haven't had a chance to review those."

13 Then, when you went to the testimony of Rita
14 Vanderworken [phonetic], who was their bookkeeper expert that
15 they put up, Mr. Clary said, We'd offer Exhibit 1, which was
16 the exhibit that was being objected to because of its untimely
17 production; i.e. the morning of the evidentiary hearing.

18 So what Mr. Beller said to Judge Denton was: The
19 only thing we received from the defendant are the QuickBooks
20 and those things that we've gotten voluntarily, and
21 recognizing there's no -- there's no ECC, no JCCR, no
22 discovery, not even as we gave to them and a courtesy copy and
23 ample time to go over whatever they were going to put on
24 today, so what effectively they're proposing to do is submit
25 documents maybe that we haven't seen or are not in evidence.

1 Judge Denton admitted them anyway. He didn't
2 continue the hearing. And then when Mr. Clary asked Ms.
3 Vanderworken what was the status of those documents, he said,
4 "Let me ask you this -- let me just ask you, was this -- we
5 had a meeting at my office that lasted several hours, in
6 preparation for this hearing today, yesterday, did we not?

7 "Yes.

8 "And is that a --" Sorry. It's all sort of jumbled.
9 And then when -- you then asked, "Isn't it true that the
10 content of this document was still occurring last night at the
11 meeting?" This was Exhibit 1.

12 MR. SEGEL: Your Honor, I have to make an objection.
13 If this is part of the record --

14 THE COURT: The objection is sustained. I don't need
15 to know all of this to make this ruling. What I need to know,
16 Ms. Taylor, is why you think I can change the order that Judge
17 Denton had without having a separate evidentiary hearing to
18 make my own findings as to the appropriateness of the claim.
19 And I understand there's been a long and tortured history of
20 this case since you've been in here. Long.

21 MS. TAYLOR: And tortured.

22 THE COURT: So why do you think I have the authority
23 to do this without having an evidentiary hearing and going
24 through the entire process?

25 MS. TAYLOR: Because we had provided expert reports

1 to you that show that upon finally having the opportunity,
2 after a long tortured history of reviewing all of the
3 documents, Mr. Stringham has found at least \$693,000 of
4 unsupported corporate records. We believe that under the
5 statute which says there's no reasonable possibility that the
6 prosecution will benefit the corporation, that's sufficient.

7 You've now seen, after going through the discovery
8 and after having expert reports produced, that there is
9 possibility of a benefit to the corporation, that is that
10 wrongfully substantiated funds may be returned to the
11 corporation. There may be all kinds of benefits to the
12 corporation, including not the least of which is the fact that
13 they finally had to go and organize their documents, put the
14 documents in order, produce all the documents in compliance
15 with general corporate governance practices that they had
16 never adhered to before.

17 And so that is why I think, Your Honor, that you
18 could do it without a full evidentiary hearing, because we've
19 shown, and you have the discretion. It says right there, "The
20 amount of the security may thereafter from time to time be
21 increased or decreased in the discretion of the Court upon
22 showing that the security provided has or may become
23 inadequate or is excessive."

24 We've been sitting on a bond that's --

25 THE COURT: That's very, very different than what

1 you're asking me to do. The motion's denied. However, if
2 there is a lengthy continuance of the trial due to the
3 granting of the amendment to the complaint, I will consider
4 scheduling an evidentiary hearing to re-evaluate the bond
5 issue and to also make a determination as to whether the bond
6 needs to be increased or decreased.

7 So now, Mr. Segel, can I go to your issue. Where are
8 you guys on discovery, since your response said you have more
9 depositions you still have to take? I guess you have one on
10 the 16th.

11 MR. SEGEL: Your Honor, since -- and I will talk
12 about our wonderful December hearing at the next hearing where
13 we discuss the -- or the motion for reconsideration. We're
14 not going to bore the Court or the rest of the attorneys in
15 the courtroom with that today. All you've allowed us to do is
16 take the depositions of their experts. You have limited it to
17 that.

18 We have scheduled the deposition of Mr. Stringham --
19 Mr. Clary has noticed the deposition of Mr. Appenbreak for the
20 16th.

21 THE COURT: Correct.

22 MR. SEGEL: We have not decided whether we're going
23 to take the deposition of Mr. Stringham yet or not. We may or
24 may not, but I think we still have time to notice it within
25 the time frame that you've provided. It is our intent to

1 complete the deposition within the time frame, and I don't
2 know the exact deadline.

3 But I have mixed -- first, I have mixed feelings
4 about educating experts. Mr. Appenbreak, as I said, I don't
5 think is credible, so I'm going to have fun with him. But we
6 haven't decide -- Mr. Stringham, at the evidentiary hearing we
7 held, we were successful because Mr. Stringham would -- would
8 not lie. Mr. Stringham could not find anything of substance,
9 and that's what he stated in essence and that's why Judge
10 Denton ruled the way he ruled.

11 I think that Mr. Stringham's report has lots and lots
12 of holes in it as well. But I may not even have to take his
13 deposition. I don't know what Mr. Clary's plans are.

14 MR. CLARY: Your Honor --

15 THE COURT: Well, I see that the defendants have
16 submittals of additional expert reports by June 27th. Are we
17 going to make that deadline?

18 MR. SEGEL: As far as I know --

19 MR. CLARY: No.

20 MR. SEGEL: What?

21 MR. CLARY: No, we can't make it.

22 THE COURT: Why not, besides Mr. Segel has to go
23 visit his grandchildren?

24 MR. CLARY: Because we don't -- we have not been able
25 to take Mr. Appenbreak deposition first.

1 THE COURT: Well, I didn't anticipate you would have
2 to take the deposition before having your experts submit a
3 report.

4 MR. CLARY: I know. That's why we can't get an
5 expert witness, because we don't know what our expert's going
6 to -- going to have to need until we take his deposition.

7 THE COURT: Okay. Just so we're clear, I do not ever
8 condition the expert rebuttal report on the taking of the
9 expert proffering the report. I don't ever condition that.

10 MR. CLARY: Well, I'm just telling you --

11 THE COURT: So if that's your whole reason, you're
12 not getting anymore time.

13 MR. CLARY: Okay. Well, then so be it.

14 THE COURT: If you have another reason, I'd be happy
15 to listen to it.

16 MR. CLARY: No, I don't. I really don't, because --

17 MR. SEGEL: Your Honor, on the issue of the
18 securities expert -- we have our forensic expert and we
19 anticipate that she will have her report done in a timely
20 manner. They're working on their report now. As far as the
21 securities expert is concerned, I personally, under the
22 complaints that you have as set forth today; i.e. with
23 negligent misrepresentation only, we don't need a securities
24 expert. I'm not concerned about that. So we have not -- we
25 may or may not have an expert that we can bring in. If you

1 amend the complaint --

2 THE COURT: I only want you to disclose expert
3 reports based upon the amended complaint that is currently on
4 file, because Mr. Clary's going to file a motion to dismiss
5 certain parts of that new amended complaint, and then I may
6 have to do something else and you may need a new discipline of
7 expert that you do not currently have.

8 MR. CLARY: You've got it.

9 MR. SEGEL: At the present time we do not have --
10 feel -- I don't feel that I need a securities expert and I
11 have not retained a securities expert for the negligent
12 misrepresentation claim.

13 MR. CLARY: Well, I can tell you that with the new
14 complaint, the new amended complaint, which incidentally is
15 not just limited to that one cause of action.

16 THE COURT: I understand, Mr. Clary.

17 MR. CLARY: All right. With the new amended
18 complaint, especially the new claim, I'm going to need a
19 securities expert that I -- and I don't know exactly what that
20 security expert is going to -- going to talk about until I get
21 into that. And moreover --

22 THE COURT: So can I --

23 MR. CLARY: Moreover, with that new -- with that new
24 cause of action for securities, the violation of the state's
25 securities laws, I'm also going to need to take depositions of

1 certain of the plaintiffs, which I was not going to do before
2 that was -- is being filed.

3 THE COURT: Okay. So let me ask my question a
4 different way. Given the current complaint on file, are we
5 going to make the deadlines that I set on April 28th --
6 April 26th?

7 MR. SEGEL: I believe that is feasible, Your Honor.

8 MR. CLARY: Yes.

9 THE COURT: Okay. All right. I know there may be
10 changes if I allow the new complaint to stand in full or in
11 part. But we're not there yet. So my question was based on
12 where we are now, and I assume everybody's going to meet their
13 deadlines and their discovery's going to be completed by July.

14 MR. CLARY: Yes.

15 THE COURT: I would like to set a status check with
16 you to evaluate those issues after the close of your
17 discovery, because by my guess, that's going to be about the
18 time that I'm seeing the motion to dismiss on my calendar. So
19 I'm going to set it for July 17th, which is a Tuesday.

20 Will you be back by then, Mr. Segel?

21 MR. SEGEL: Oh, yeah. I'm only going a week, Your
22 Honor.

23 THE COURT: All right. I just want to make sure.

24 MR. CLARY: What time?

25 THE COURT: At that time, if I have not already heard

1 the motion to dismiss, I want to talk about scheduling issues,
2 because you will know if you're going to meet your deadlines
3 by that time.

4 MR. CLARY: What time, Your Honor?

5 THE COURT: 9:00 o'clock.

6 MS. TAYLOR: Your Honor, I don't want to have to come
7 back before you. And you've just said you generally don't
8 condition expert depositions before rebuttal reports. In fact, in
9 February 24th you said, I am not going to let you depose the
10 experts before the defense report, and currently with the
11 schedule you have today, the reports are not due until
12 June 27th. Mr. Clary has noticed my expert for June 16th. I
13 was going to go conduct a 2.34 with them.

14 THE COURT: Oh. You're going to let him go with the
15 depo whenever he notices it. I don't set the deadlines to
16 condition it. If he can get the deposition set before then,
17 more power to him. But that is not how I schedule them.

18 MS. TAYLOR: But Your Honor previously even said, I'm
19 not going to let you depose the experts before the defense
20 report. That's what you said on February 24th, page 18,
21 line 15th and 19th.

22 THE COURT: I understand that's what the transcript
23 reads. What I said and what appears on the transcript and
24 what I meant to tell you is I do not condition the filing of
25 the reports on whether you can get the expert deposition taken

1 in that time. So don't ask me to extend it because you
2 couldn't get the depo taken.

3 MR. SEGEL: No, no, no.

4 MS. TAYLOR: Oh, no, no, no. What I'm saying is I am
5 planning on filing a motion for protective order because it
6 violates what you said that you'd do.

7 THE COURT: That will be denied if you file it in
8 this particular case.

9 MS. TAYLOR: Okay. Well, then I will have to speak
10 with them, because I will be out of town at a mandatory OSC on
11 the 16th.

12 THE COURT: Then why don't you guys talk about an
13 agreeable date that you can move it to.

14 MR. CLARY: Because she won't talk to us, that's why.

15 MR. SEGEL: Your Honor --

16 THE COURT: Why don't you guys go in the hallway and
17 see if you can work out an agreeable date, and since I know
18 you're going to talk while you're here in the courtroom or in
19 the hallway, then wave at me when you've finished talking, and
20 come back in and we'll pick the date that you're going to come
21 back.

22 MR. SEGEL: Your Honor, unfortunately, I don't have
23 my calendar with me to know. I do have a lot of mediations
24 set.

25 THE COURT: Can you call somebody on the phone and

1 ask?

2 MR. SEGEL: Unfortunately, my assistant came with me
3 because -- so there's nobody in my office to tell to let us
4 know. I'll be glad to try to have -- Ms. Taylor --

5 THE COURT: Okay. Ms. Taylor and Mr. Segel are going
6 to talk.

7 MS. TAYLOR: Yes.

8 THE COURT: I don't care if Mr. Clary is involved in
9 the conversation or not. But you and Mr. Segel are going to
10 talk, and Mr. Segel, you're going to then coordinate with
11 Mr. Clary, and that way I know everybody talked to each other
12 who can get along. And then Mr. Segel, you send me a letter
13 saying you reached an agreement, or Judge, we need a
14 conference call. That's all the letter needs to say. And
15 then one of the externs will tell me and we will set a
16 conference call.

17 MR. CLARY: Your Honor --

18 MR. SEGEL: The only issue, Judge, I am positive that
19 I cannot do it before the discovery deadline if it doesn't go
20 on the 16th. It was set for that date because that was the
21 only time I was available to have a day, because I want to
22 make sure we had a full day for this deposition.

23 MR. CLARY: That's exactly what he told me when I set
24 it for the 16th. Now, I will say, represent to the Court that
25 in ten minutes I will have somebody in my office that can look

1 up my calendar.

2 MR. SEGEL: All I'm asking, Your Honor, is, is it --

3 THE COURT: Yeah, but Mr. Segel doesn't, so.

4 MR. SEGEL: All I'm asking, Your Honor, is that if
5 Ms. Taylor, if we find a -- if we cannot coordinate a time
6 where we can set us out a full day prior to the deadline that
7 you have set, I just want a stipulation from counsel that we
8 can go beyond that date. And it's going to be only -- and
9 we're going to try to coordinate it, but that's the only --
10 that's why we set it on that date specifically almost a month
11 in advance.

12 MS. TAYLOR: And I don't have a problem with that for
13 the securities issue. But, you know, that he just represented
14 that his forensic expert who would be rebutting Mr.
15 Stringham's report, and that's what he said, if you look back
16 at the transcript, is going to be ready to go for the 27th.

17 THE COURT: You're either going to reach an agreement
18 or you're not. If you don't, we'll have a conference call and
19 I'll enter an order.

20 MR. SEGEL: One last issue.

21 THE COURT: I am not inclined to continue expert
22 reports for depositions. However, since you have a deposition
23 set, there may be other things that have to be done. But --
24 and the only reason you're being asked to reschedule it is
25 because of adverse counsel's unavailability. It might be

1 possible that someone else in her office can become available,
2 or it might be possible we can come up with other solutions.

3 MR. CLARY: I don't remember how long ago it was we
4 noticed that deposition, but it's been quite a while, Your
5 Honor.

6 THE COURT: Mr. Clary --

7 MR. CLARY: Why didn't she contact us before today?
8 She was going --

9 THE COURT: Because you guys can't get along and
10 every time you talk a war occurs and then it gets worse for
11 me.

12 MR. CLARY: Yeah. So now we're --

13 MR. SEGEL: Well, actually, Your Honor, there are no
14 discussions --

15 MR. CLARY: But if she had mentioned it --

16 THE MARSHAL: One at a time. One at a time.

17 MR. CLARY: No, wait a minute. This is -- I wasn't
18 finished. If she had --

19 THE COURT: Okay. Go away.

20 MR. CLARY: Wait a minute. One more thing.

21 THE COURT: No, really. Go in the hallway. See if
22 you can come up with a date. If you can't come up with a
23 date, then I will come up with a date for you and it may be
24 Ms. Taylor doesn't get to go to her mandatory settlement
25 conference that she's been ordered by another judge, and then

1 she can figure out what to do.

2 MR. SEGEL: Your Honor, just one issue --

3 THE COURT: Go away.

4 (Recess at 9:55 a.m. until 10:36 a.m.)

5 MR. CLARY: For the record, Your Honor, I agree with
6 Mr. Segel.

7 MR. SEGEL: I'm not sure I do agree either, but
8 that's otherwise.

9 Your Honor, I'm not sure how one can rule in a case
10 that doesn't affect the debtor, but that's another question.

11 THE COURT: Yeah.

12 MR. SEGEL: If you can do it, that's great. Your
13 Honor, on our case, Ms. Taylor and Mr. Clary and I had some
14 discussions. We did discuss the deposition schedule. She's
15 going to provide me with some dates of availability of her
16 experts between now, I guess the 22nd should be 15 days from
17 today, and the end of July. And we're going to try to
18 coordinate those and get those done before the discovery
19 deadline that you have set for us to do those depositions.

20 We do have some other issues that we're not sure
21 we've got agreed upon. She'll provide me with the information
22 by the end of the day if possible. I'll coordinate with
23 Mr. Clary and I'll get that letter off to you by the time I
24 leave tonight. Actually, I leave in the morning, but before I
25 leave if at all possible. And so I think that we're on track.

1 We just have also a 234 on a number of other issues
2 we're going to try to address. And then the last issue is I
3 just -- we just discussed a settlement conference, which was
4 discussed before. We have got to talk to our clients, but I
5 think hopefully we might be able to -- it would be amenable or
6 desirable to go possibly to a settlement conference sometime
7 in July if at all feasible.

8 THE COURT: While Judge Delaney has a new assignment,
9 she is going to continue to do business court settlement
10 conferences as part of her assignment. So if you would like,
11 she or Judge Denton or I, or our new business court judge who
12 has not been selected will be able to do that. So give me a
13 call and we'll try and place you, if you decide you want to do
14 that.

15 MR. SEGEL: If I may ask a question. Would you be
16 willing to act as settlement judge in this matter, since
17 you're a trial judge?

18 THE COURT: Absolutely not.

19 MR. SEGEL: Well, you said I, so I just thought --
20 both sides --

21 MS. TAYLOR: We all concurred that we wanted you.

22 MR. SEGEL: Both of us think we --

23 THE COURT: Did you all hear that no?

24 MS. TAYLOR: Yes, we did, and we knew that would be
25 what you would say.

1 MR. SEGEL: I figured as much, but you just said,
2 Or I.

3 THE COURT: Or I. Oh, I'm sorry.

4 MR. SEGEL: Would we be able to get a -- would we be
5 able to agree to a senior judge other than --

6 THE COURT: No, because --

7 MR. SEGEL: -- Judge Denton?

8 THE COURT: -- of budget issues. I had to sit on
9 Judge Villani's criminal calendar this morning, because while
10 he requested senior judge coverage six months ago for his
11 vacation and was promised it, it was pulled at the last
12 minute. And so we have been covering and today was my day to
13 cover for him. I'm sorry I was late, but I was helping,
14 because there was no money to pay for a senior for Judge
15 Villani's vacation.

16 MR. SEGEL: So I guess what that means is that we'd
17 have to have Judge Delaney be the settlement judge.

18 MS. TAYLOR: Or the new judge.

19 THE COURT: Or Judge Denton or -- oh, no. Judge
20 Denton's not --

21 MR. SEGEL: Well, Judge Denton heard this case
22 already and that's an issue.

23 THE COURT: See if you want to. Let me know. If you
24 can, Dan and I will figure out a date and the time of a judge,
25 Delaney or the new judge. Or if you want to choose another

1 district court judge that you have confidence in and you can
2 get him to commit the time, you're great, but you got to call
3 around and get that one.

4 MS. TAYLOR: Right.

5 MR. SEGEL: Very good, Your Honor. We appreciate it.
6 Thank you.

7 THE COURT: Okay.

8 MS. TAYLOR: For the record, we now have witnesses,
9 Your Honor, that we can talk and get along.

10 MR. SEGEL: So nice.

11 THE COURT: All right.

12 MS. TAYLOR: I thought I'd get a little bit more of a
13 chuckle out of that, Your Honor.

14 THE COURT: Go away.

15 MR. CLARY: I'm glad you said that. I did not know
16 until you said that we couldn't use a senior judge for that
17 reason. That's amazing. That's really regrettable.

18 MR. SEGEL: All right. We appreciate it, Judge.
19 Thank you.

20 THE COURT: Yeah. There's a lot of things that are
21 impacted by the economic conditions.

22 (Hearing concluded at 10:39 a.m.)

23

24

25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR
TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

KARR REPORTING, INC.
Aurora, Colorado


KIMBERLY LAWSON

EXHIBIT “2”

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Monday, June 20, 2011 1:06 PM
To: Jennifer L. Taylor
Cc: 'Patrick C. Clary'
Subject: Expert Report

Ms. Taylor:

This email is being sent as a follow up to our discussion today regarding my request for an extension of time to provide our expert report. You have granted us to, and including, July 1, 2011, to serve the report. I appreciate your courtesy.

In my email, I mentioned that our expert had requested through July 15, 2011, due to vacation plans. You questioned whether this was a true statement and discussed producing plane tickets to verify that I was not telling you a story.

You have informed me that you were not in a position to grant an extension until July 15, 2011. I will notify the expert that the report MUST be completed by July 1, 2011. In the event the it is not completed, and I seek a further extension, I understand you will come out with the guns blazing. Hopefully, this will not be necessary.

I will forward a stipulation and order in the next day or two. My only question is whether you would prefer that I send it to you first to sign and you will have it delivered to Mr. Clary, or you would prefer to have Mr. Clary sign first, have him deliver it to you and you will return it to me for filing.

Thank you again.

M Nelson Segel
624 South 9th Street
Las Vegas, Nevada 89101
(702)385-5266, Ext 22

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8/12/2011

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Wednesday, June 22, 2011 12:36 PM
To: Jennifer L. Taylor
Cc: 'Patrick C. Clary'
Subject: FW: Hahn, et al. adv. Burke, et al.
Importance: High

Ms. Taylor:

I have had an opportunity to discuss your email with Mr. Clary. While I do not agree with what is set forth in your email, I have responded to the relevant portions.

First, Mr. Clary and Kokoweef have not retained a forensic expert and will rely upon, and utilize, Ms. McNair's report.

Secondly, none of the Defendants have retained an expert to rebut the report of Mr. Apenbrink. As stated in Court during your motion to amend complaint, I do not believe a securities expert is necessary based upon the Verified First Amended Derivative Complaint.

In the event Defendants are not successful in getting your newly alleged securities claims dismissed, I will be retaining an expert to respond to those allegations. Since the issue is not presently ripe, I see no need to attempt to retain a securities expert to address the latest allegations.

I trust this email satisfies your needs and you can sign the stipulation and order and have it delivered to Mr. Clary for signature. As you know, I am out of town on Friday, June 24, 2011, and Monday, June 27, 2011; therefore, it is imperative that we resolve this issue promptly.

M Nelson Segel
624 South 9th Street
Las Vegas, Nevada 89101
(702)385-5266, Ext 22

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From: Jennifer L. Taylor [mailto:jtaylor@RVCDLAW.COM]
Sent: Tuesday, June 21, 2011 3:31 PM
To: nelson@nelsonsegellaw.com; Patrick C. Clary
Cc: luann@patclarylaw.com; diana@nelsonsegellaw.com
Subject: FW: Hahn, et al. adv. Burke, et al.

8/12/2011

Counsel:

I'm in receipt of Mr. Segel's proposed Stipulation and Order related to the extension of time to file expert reports. I need some clarification. The entirety of our discussion was in regard to Sharon McNair's CPA firm. Your stipulation simply refers to "rebuttal reports". Is it: (1) Mr. Clary's intention to submit a separate forensic report as rebuttal to Mr. Stringham's report? (2) the intention of either of you to submit a rebuttal report to Mr. Apenbrink's report? If the answer to either of these questions is anything other than an unequivocal "no", let me know, because my extension to July 1 was solely for Ms. McNair's firm because of the purported vacation conflicts. Thank you for your prompt response so that we can finalize this stipulation.

Sincerely,
Jennifer L. Taylor
Robertson & Associates, LLP
401 N. Buffalo Dr., Suite 202
Las Vegas, NV 89145

Office Phone (702) 247-4661
Direct E-mail address: jtaylor@rvcdlaw.com

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No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1382 / Virus Database: 1513/3717 - Release Date: 06/21/11

8/12/2011

EXHIBIT “3”

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Thursday, June 30, 2011 10:59 AM
To: Jennifer L. Taylor
Cc: 'Patrick C. Clary'
Subject: Defendants' Expert Report
Importance: High

Ms. Taylor:

I received a call from our forensic expert today informing me that the complete report cannot be done by tomorrow. I have been informed that vacation plans have been cancelled and they will work through the holiday weekend to complete the project. I have been asked to obtain your consent to serve the report by Tuesday, July 5, 2011.

If you are not willing to grant the weekend to complete the project, please contact me immediately to conduct our 2.34 conference. I will file a motion with the Court tomorrow seeking an extension through Friday, July 8, 2011. Frankly, I do not see the harm to your client to grant us the additional time to Friday, July 8, 2011. However, you have the right to pick your battles.

I look forward to your prompt response.

M Nelson Segel
624 South 9th Street
Las Vegas, Nevada 89101
(702)385-5266, Ext 22

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8/12/2011

EXHIBIT “4”

Jennifer L. Taylor

From: Jennifer L. Taylor
Sent: Tuesday, July 05, 2011 2:47 PM
To: 'nelson@nelsonsegellaw.com'
Cc: 'Patrick C. Clary'
Subject: RE: McNair Report

If the complete report is emailed to me by 5, then you can put a disk in the mail. I reserve the right to ask for it in hard copy if I have any problems opening the disk. I have not, in the past, had problems opening your disk, but I just want to ensure we're not going to have problems.

Sincerely,
Jennifer L. Taylor
Robertson & Associates, LLP
401 N. Buffalo Dr., Suite 202
Las Vegas, NV 89145

Office Phone (702) 247-4661
Direct E-mail address: jtaylor@rvcdlaw.com

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-----Original Message-----

From: M Nelson Segel [mailto:nelson@nelsonsegellaw.com]
Sent: Tuesday, July 05, 2011 11:33 AM
To: Jennifer L. Taylor
Cc: 'Patrick C. Clary'
Subject: McNair Report

Ms. Taylor:

I have spoken to Ms. McNair's office and we should have a report available for you by 5:00 p.m. I have also been informed that the document will probably be small enough to email the report with exhibits.

Assuming that this is correct, do I need to provide you with a complete copy tomorrow? If so, will you be satisfied with a disk or do I need to print the report for you?

Your courtesy and cooperation in allowing us until 5 pm today to complete the report is appreciated. if you have any questions, please feel free to contact me.

M Nelson Segel
624 South 9th Street
Las Vegas, Nevada 89101
(702)385-5266, Ext 22

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8/12/2011

EXHIBIT “5”

McNair
& Associates, Chartered
Certified Public Accountants
Forensic Accountants

August 5, 2011

Larry L. Hahn
c/o M. Nelson Segel, Esq.
M. NELSON SEGEL, CHTD.
624 South Ninth Street
Las Vegas, Nevada 89101

Re: BURKE, ET. AL. V. HAHN, ET. AL.
Case No. A558629
Eighth Judicial District Court, Clark County, Nevada

Dear Mr. Hahn:

Pursuant to our August 25, 2010 Engagement Letter, this correspondence shall serve as our supplemental rebuttal report to correspondences from Talon C. Stringham, CPA of SAGE FORENSIC ACCOUNTING to Jennifer L. Taylor, Esq. of ROBERTSON & VICK, LLP, dated January 19, 2011 and May 20, 2011, respectively.

SUPPLEMENTAL REBUTTAL:

ANALYSIS OF FUNDS RELATED TO SHAREHOLDER INVESTMENTS

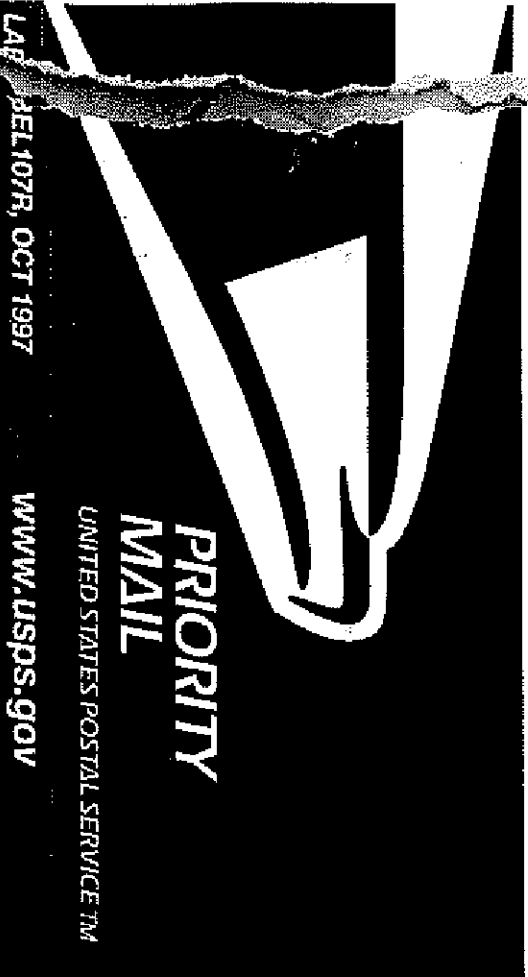
Correspondence from Talon C. Stringham, CPA of SAGE FORENSIC ACCOUNTING to Jennifer L. Taylor, Esq. of ROBERTSON & VICK, LLP, dated January 19, 2011

In his section entitled, "ANALYSIS OF FUNDS RELATED TO SHAREHOLDER INVESTMENTS," Mr. Stringham makes a number of assumptions regarding deposits made by Hahn's World of Surplus. He assumes that because a number of these deposits contain cash that the cash came from EIN or Kokoweef investors. With these assumptions, Mr. Stringham then implies that Hahn's World of Surplus misappropriated \$30,830.00 in investors' funds. Mr. Stringham has absolutely no evidence whatsoever to support his misappropriation claims. In fact, Mr. Stringham states the following in his reported dated January 19, 2011 page 9:

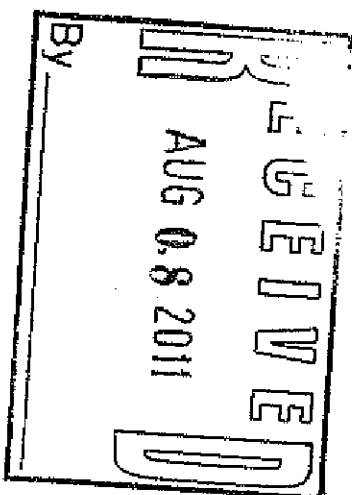
"Since the transactions were done with cash, there is no way of knowing the ultimate disposition of the funds."

Using Mr. Stringham's schedule 7 (which is actually labeled schedule 4), we tried tracing the shareholder investments to bank deposits. We were able to trace Carole Nicolle to bates stamps PL006484 and deposit slip bates stamp PL006471. We were unable to trace the cash payments, but, this lack of tracing does not necessarily indicate the monies were misappropriated. It simply means that the monies could not be traced.

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PATRICK C. CLARY, CHARTERED
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8670 WEST CHEYENNE AVENUE
SUITE 120
LAS VEGAS, NEVADA 89129



Jennifer L. Taylor, Esq.
Robertson & Vick, LLP
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