ORIGINAL

OPPS
ALEXANDER ROBERTSON, IV
State Bar No. 8642
JENNIFER L. TAYLOR
State Bar No. 5798
ROBERTSON & VICK, LLP
401 N. Buffalo Dr., Suite 202
Las Vegas, Nevada 89145
Telephone: (702) 247-4661
Facsimile: (702) 247-6227

Attorneys for Plaintiffs

Electronically Filed
06/19/2009 10:53:37 PM

CLERK OF THE COURT

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: XIII

PLAINTIFFS' OPPOSITION TO DEFENDANT PATRICK C. CLARY'S MOTION FOR SUMMARY JUDGMENT

Plaintiffs Ted R. Burke; Michael R. And Lauretta L. Kehoe; John Bertoldo; Paul Barnard; Eddy Kravetz; Jackie and Fred Kravetz; Steven Franks; Paula Maria Barnard; Leon Golden; C.A. Murff; Gerda Fern Billbe; Bob and Robyn Treska; Michael Randolph and Frederick Willis (hereinafter collectively referred to as "Plaintiffs"), by and through their undersigned counsel of record, Robertson & Vick LLP, hereby files their Opposition to Defendant Patrick C. Clary's Motion for Partial Summary Judgment.

This Opposition is based upon the points and authorities set forth herein, the pleadings and papers on file herein, the exhibits attached hereto, and any oral argument requested of counsel.

DATED this 19th[th] day of June, 2009.

ROBERTSON & VICK, LLP

By: _____
ALEXANDER ROBERTSON, IV
Bar No. 8642
JENNIFER L. TAYLOR
Bar No. 5798
401 N. Buffalo Drive, Suite 202
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES:

I. INTRODUCTION:

The Court is well versed in the facts of this case. It is a shareholder derivative lawsuit against Defendant Larry Hahn ("Hahn"), Kokoweef, Inc's ("Kokoweef") president, and his alter-ego, Hahn's World of Surplus, Inc. ("HWS"). This shareholder derivative suit seeks damages owed to Kokoweef, and to its predecessor, Explorations Incorporated of Nevada ("EIN"), as a result of, among other acts of malfeasance, self-dealing, securities fraud, and conversion of corporate assets by the Defendants.

This matter, however, is still in its infancy, and as such, Defendant's Motion for Partial Summary Judgment is extremely premature. As more further set out below, there are significant threshold discovery issues that must be determined before any such analysis can be presented to the Court. Therefore, Defendants Motion must be denied.

II. STATEMENT OF FACTS

A. Procedural History:

This marks Defendant Clary's third attempt at a dispositive motion to eliminate or dismiss the claims against him.

First, Clary joined in the Motion to Dismiss filed in November 2008 by co-defendants Larry L. Hahn ("Hahn") and Hahn's World of Surplus ("HWS"). The Motion to Dismiss, filed by Hahn and HWS sought to dismiss Plaintiffs' entire Verified Derivative First Amended Complaint, including all the claims against Clary. Second, Clary next filed a Motion for Sanctions seeking dismissal of the claims against him.

On, January 29, 2009, the Court rendered a Decision and Order on both these motions. While the Court dismissed, pursuant to NRCP 9(b), claims against Defendant Clary that sounded in fraud, and required "particularized statements of fraud", the Court ruled that it was "not of the view that negligent misrepresentation requires the same particularity in pleading as fraud" and therefore could stand as a claim on which relief could be granted. A true and correct copy of the January 29, 2009 order is attached hereto as Ex. 1.

Now Defendant Clary is taking a third bite at the apple in his ongoing attempt to thwart Plaintiffs from moving forward with this case. Clary, however, has again failed to present any legitimate factual argument or viable legal authority to support his latest attempt at a summary disposition of this matter.

Further, Defendant's Motion is premature and intended, apparently, to continue to harass and oppress Plaintiffs. Pursuant to NRCP 26(a), discovery may not even commence until a Joint Case Conference Report has been filed. In this matter, as a result of endless law and motion work filed by Defendants prior to even filing their answers, the Joint Case Conference Report

was not filed until May 19, 2009. Defendant Clary then filed this Motion for Summary Judgment **not even two full weeks after discovery could even commence**! Further, the Joint Case Conference Report does not require initial expert disclosures until August 3, 2009, and Plaintiffs intend to prove several of Clary's misrepresentations through the testimony of experts and/or governmental officials. Finally, the limited discovery that Plaintiffs have attempted has been met with delay tactics by Defendants.[1] Accordingly, additional time for discovery is warranted prior to Clary's presentation of such a motion. Harrison v. Falcon Prods., Inc., 103 Nev. 558, 746 P.2d 642 (Nev. 1987) (concluding that the court erred in granting summary judgment when not even two years had passed since the filing of the complaint until the time summary judgment was granted, and the plaintiff's diligence in pursuing the action was reflected by her request for additional time to take dispositions and to seek admissions).

B. Statement of Material Facts:

Despite Clary's self-serving affidavit, numerous material facts are at issue in this matter, including, but not limited to whether the shares of either EIN or Kokoweef are exempt from registration and whether Clary offered false guidance to Plaintiffs in the sale those securities. The self-serving Affidavit of Clary does not constitute entitlement to judgment as a matter of law. This Affidavit includes legal conclusions without proper authority or evidence, as well as inflammatory rhetoric that is both irrelevant and improper for the contents of an Affidavit under the Eighth Judicial District Court Rules. In opposition to Clary's Affidavit, Plaintiffs have presented the Affidavit of Plaintiff Ted Burke ("Burke"), a true and correct copy of which is attached hereto. The material facts follow.

During the existence of EIN, Kokoweef's predecessor, Defendant Larry L. Hahn ("Hahn") issued an undetermined number of shares to literally hundreds of investors in the gold mine for a sale price of $6 per share. The issuance of these shares of stock in EIN violated both federal and state securities laws. Clary, who was corporate counsel for EIN and now for

[1] Plaintiff served a series of subpoenas on banks in order to obtain the full financial records, which Defendants refuse to release in anything other than a piecemeal fashion. The response to a portion of those Subpoenas was a Motion to Quash, which had to be continued well past the original hearing date due to Defendant/Attorney Clary's perpetual vacation schedule.

Kokoweef, generally admits the same in his own Affidavit: "After examining certain of the books and records of EIN and reviewing its securities transactions, I advised EIN that it had not been following all proper procedures in the offer and sale of its stock" See Mot., Clary Aff. ¶4.

As a result of EIN's securities violations, Clary decided to conceal these illegal transactions from the existing shareholders by "reorganizing" EIN into a new corporation, called Kokoweef. While Clary himself may have notified the shareholders of this plan of reorganization, he failed to inform those shareholders of the true reason for the reorganization. See Burke Aff. ¶ 5.

On or about October 12, 2006, Clary sent this written notice to the stockholders of EIN identifying himself as corporate counsel to both EIN and Kokoweef, and noting that on November 10, 2005, EIN and Kokoweef would enter into an "Agreement and Plan of Reorganization" (hereinafter the "Plan"), whereby EIN would agree to sell and assign to Kokoweef all of EIN's assets in exchange for the voting shares of Kokoweef's common stock. The Plan was entered into on or about November 10, 2005. Under the Plan Kokoweef agreed to assume all of EIN's assets, and Kokoweef agreed to assume of the liabilities of EIN to its stockholders. See Agreement and Plan of Reorganization attached to Clary Aff. to Mot.

Clary, along with Hahn, devised the scheme to "reorganize" EIN and Kokoweef in an attempt to conceal from the shareholders the fact that ninety (90) to ninety-nine (99) percent of EIN's stock sales were illegal. See Burke Aff. ¶ 4. Burke's testimony in his Affidavit creates a genuine issue of material fact as to Clary's misrepresentation to the shareholders regarding the true reasons for the reorganization. Additionally, the fact is that the Nevada Secretary of State, on its website, states: "Whether you register or qualify for an exemption, the company is never excused from providing full and fair disclosure to investors." See Nevada Secretary of State information regarding "Exemption from Registration", a true and correct copy of which is attached hereto as Exhibit " 2 ". Both Burke's and Clary's Affidavits indicate that material facts exist as to whether Clary provided full and fair disclosures to the investors.

Further, on or about September 18, 2007, Burke attended a meeting with Clary and Hahn. The discussion at this September 18, 2007 meeting included Burke's personal liability as a

Kokoweef Director, for what Burke perceived to be Kokoweef's violation of the Bylaws and for what he believed to be Hahn's misappropriation of corporate funds to pay for his personal expenses. Burke Aff. ¶ 3. Burke's Affidavit provides evidence that Clary informed him that the reason Kokoweef had been formed was to "wipe out" the multiple securities violations of EIN, and that, as stated above, ninety (90) to ninety-nine (99) percent of the stock sales by Hahn were unlawful, and that the reorganization was to conceal the illegality of the sale of EIN securities until a time when the statute of limitation had lapsed on these violations. Burke Aff. ¶5.

During the September 2007 meeting, Clary also advised Burke that the sales of securities in EIN and Kokoweef did not need to be registered with the SEC, because they fell within an exemption provided by Rule 504 of Regulation D. Burke Aff. ¶ 6. However, Plaintiffs intend to prove that the sale of securities in EIN and Kokoweef were not eligible for the exemption provided by Rule 504 of Regulation D of the SEC because neither EIN or Kokoweef registered the offering of shares with the State of Nevada or filed a Registration Statement with the State of Nevada or delivered substantive disclosure documents as required to investors such as Plaintiffs. Additionally, Plaintiffs believe, and expect to prove, that Clary's representations about the exemption of the EIN or Kokoweef shares under Nevada securities laws were also false, as none of the transactions complied with the exemptions provided by NRS § 90.520 or NRS § 90.530. Plaintiffs have not, however, even had enough time in the ordinary course of written discovery or reached the deadline for expert disclosures to obtain the expected evidence or expert opinions regarding these material facts.

III. LEGAL AUTHORITY:

A. Standard for Summary Judgment:

The standard for Summary Judgment is well known: "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions of file, together with the affidavits, if any, show that there is no genuine issue as to any material fact." NRCP 56(c). This case is in the infancy of discovery. No written discovery has been

served or answered. Only one depositions, noticed by Plaintiffs, has been taken. Yet Defendants are again trying to forestall the ability of Plaintiffs to substantively move this case forward.

Trial courts should exercise great care in granting summary judgment. Pleadings and documentary evidence must be construed most favorably to the party against whom the motion is made. Copeland v. Desert Inn Hotel, 99 Nev. 823, 673 P.2d 490 (Nev. 1983). Additionally, in determining whether a summary judgment is proper, the nonmoving party is entitled to have the evidence and all inferences therefrom accepted as true. Johnson v. Steel, Inc., 100 Nev. 181, 678 P.2d 676 (Nev. 1984). Further, the trial judge may not, in granting summary judgment, pass upon the credibility or weight of the opposing affidavits or evidence; that function is reserved for the finder of fact at trial. Hidden Wells Ranch, Inc. v. Strip Realty, Inc., 83 Nev. 143, 425 P.2d 599 (Nev. 1967). On summary judgment motion the court is obligated to accept as true all evidence favorable to the party against whom the motion is made. Id. In this matter, given the fact that discovery had not even been open for two weeks at the time Clary's Motion was filed , Burke's Affidavit, and all the statements therein must be accepted as true. Id.

B. Defendant Appears to Erroneously Argue That"negligent Misrepresentation" Is Not a Viable Cause of Action and Such Argument Should Be Disregarded

Plaintiffs are, frankly, baffled by Defendant's borderline non-sensical argument regarding the viability of a claim for negligent misrepresentation. Defendant claims that his "quick effort at further research has not uncovered the combining of the words 'negligent' and 'misrepresentation' ". Mot. 5:12-13. Plaintiffs are unsure what type of legal research Defendant conducted. When Plaintiff conducted a Westlaw search using the exact phrase, "negligent misrepresentation" in the "nevada-cases-all" database, six-hundred and twenty-four (624) cases were located. A true and correct copy of the search result is attached hereto as Exhibit " 3 ".

Additionally, a definition for "negligent misrepresentation", as set out in the Restatement (Second) of Torts § 552, has been specifically adopted by the Nevada Supreme Court. Bill Stremmel Motors, Inc. v. First Nat'l Bank of Nevada, 94 Nev. 131, 134, 575 P.2d 938, 940 (Nev. 1978). Further, despite Clary's protestation that "after 40 years of practicing securities law, [he

has] never heard of 'negligent misrepresentation' " (Clary Aff. ¶ 12 to Mot.), the Nevada Supreme Court has described negligent misrepresentation as " a special financial harm claim for which tort recovery is permitted because without such liability the law would not exert significant financial pressures to avoid such negligence." Terracon Consultants Western, Inc. v. Mandalay Resort Group, ___ Nev. ___, 206 P. 3d 81, 88 (Nev. 2009).

Accordingly, Defendant's so-called argument regarding Plaintiffs' claim for negligent misrepresentation lacks any merit whatsoever, and should be disregarded in its entirety.

C. Defendant's So-called Argument That He Is "Further" Entitled to "A Judgment as a Matter of Law" Lacks Merit or Authority and Should Similarly Be Disregarded

Section IV of Clary's Motion simply asserts, with no authority or even a clear argument, that he is entitled to Judgment as a Matter of Law. Plaintiffs are, again, befuddled as to an appropriate response to an argument that falls so far outside the parameters of EDCR 2.20(f) (points and authorities which consist of bare citations to statutes, rules, or case authority does not comply with this rule and the court may decline to consider it). In this case, the entirety of Section IV appears to be more diatribe than points and authorities, and contains no, let alone "bare" citations to statutes, rules or case authority. Even assuming that Clary is relying on his self-serving, argumentative Affidavit, which contains as many legal conclusions as factual assertions, Clary has not managed to surmount the high threshold necessary to obtain summary judgment against Plaintiffs, and he is simply not entitled to judgment as a matter of law.

One of the fundamental issues of material fact that is not resolved in Clary's Motion or Affidavit is whether the securities of EIN and/or Kokoweef were, indeed, exempt. More specifically, whether the underlying EIN securities were exempt such as to the allow an exemption of the newly issued Kokoweef shares. NRS 90.530(17)(b), the exemption being claimed by Clary, requires that "the securities to be distributed (in this case the EIN shares) may not be required to be registered under the Securities Act of 1933, 15 U.S.C. §§77a et seq." Clary has not provided any evidence or authority to demonstrate that the EIN shares satisfy the exemption requirement. Instead, Clary simply relies on an administrative act of the Nevada

Secretary of State to claim that his filed exemption for the Kokoweef stock has merit. The Nevada Secretary of State admonishes against this type of representation, and states:

> The overriding theme of registration with the Securities Division is to insure the availability of information to the public. However, the Securities Division does not guarantee the accuracy of such information. That is the responsibility of the company. You should never make any representation that the Securities Division has passed upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. To do otherwise is a violation of NRS 90.610 and you could be subject to criminal and/or civil penalties.

See Nevada Secretary of State "Types of Registration with the Nevada Securities Division" Information, a true and correct copy of which is attached hereto as Exhibit "4".

Plaintiffs would request, at a minimum, therefore, more time for discovery be allowed as to whether: 1) the underlying securities of EIN are exempt under Nevada's statutes; and 2) whether evidence exists to support Clary's representations regarding SEC exemptions of the securities.

D. Defendants' Sole Supporting Affidavit Should Be Largely Disregarded

EDCR 2.21(c) mandates that affidavits "must contain only factual, evidentiary matter, conform with the requirements of NRCP 56(e), and avoid mere general conclusions or argument." An affidavit which is "substantially defective in these respects may be stricken, wholly or in part." Clary's Affidavit, in large part and as with nearly every Affidavit he has submitted in this litigation, violates the tenant of this rule.

Much of Clary's affidavit contains general conclusions of law. For example, the entirety of paragraphs 7 and 8, and the majority of paragraph 9, of the affidavit contain general conclusions regarding Clary's so-called compliance with securities regulations in regard to both EIN and Kokoweef. However, all these paragraphs do are create more questions as to the propriety of the alleged compliance, as described in Section C, above.

Further, paragraphs 10 -17 contain more general assertions, such as Clary's "vehement" denial that he made any misrepresentations (¶12) and his irrelevant hypothesis and inappropriate musings as to "What underlies the Plaintiffs' personal attack on me?" (¶16). Accordingly,

Plaintiffs request that this Court disregard the majority, if not all, of Clary's Affidavit as a violation of EDCR 2.21 (c).

IV. CONCLUSION

Based on the foregoing, Defendant's Motion for Summary Judgment should be denied.

DATED this 19th day of June, 2009.

ROBERTSON & VICK, LLP

By: _____
ALEXANDER ROBERTSON, IV
Bar No. 8642
JENNIFER L. TAYLOR
Bar No. 5798
401 N. Buffalo Drive, Suite 202
Las Vegas, Nevada 89145

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: XIII **PLAINTIFF TED R. BURKE'S DECLARATION IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT CLARY'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

DECLARATION OF TED R. BURKE

I, TED R. BURKE, declare, under penalty of perjury, as follows:

1. I make this Declaration in support of Plaintiff's Opposition to Defendant Patrick C. Clary's ("Clary") Motion for Partial Summary Judgment. I have personal knowledge of the facts stated herein and if called upon to testify thereto I could and would do so competently under oath.

2. I have read the Affidavit of Clary in support of his Motion for Summary Judgment.

3. On September 18, 2007, I attended a meeting with Clary, Defendant Larry L. Hahn, and William Simshauser. The purpose of this meeting was as a follow-up to an earlier meeting in which I tried to discuss my concerns with Clary regarding bylaws, the need for a complete audit of the company books and the proper sale of shares. Clary had represented to me his decades long experience in securities law, and I relied on that representation. Further, Clary told me that if something went wrong he would correct it or "make it go away."

4. During that meeting, Clary and I discussed the formation, in approximately 2005, of Kokoweef, the successor company to EIN. I asked Clary, among other things, what the purpose was for forming Kokoweef. Clary indicated that Kokoweef was formed because EIN had too many securities violations to allow for any type of corrections, and that merely forming the new company, Kokoweef, through reorganizing EIN would "wipe out" all the existing securities violation. In fact, Clary informed me, approximately ninety (90%) to ninety-nine percent (99%) of EIN's stock sales were unlawful. I asked Clary repeatedly to provide me with the specific violations that existed in EIN. He would simply state "multiple" or "numerous" with no specificity. He told me the violations were too numerous to allow the company to be corrected, but refused to get into specifics. I asked because I wanted to ensure that Kokoweef was not suffering from the same violations as EIN.

5. Clary told me at this meeting that he had concocted the scheme to "reorganize" EIN to exchange EIN's shares for Kokoweef shares in order to conceal the illegality of the sale of EIN securities and to conceal these illegal transactions from the shareholders until hopefully the statute of limitations has lapsed before the shareholders discovered this securities fraud. He told me that he could "cover up" all the violations by reorganizing and forming Kokoweef. Further, Clary told me that he had done similar "reorganizations" on numerous occasions, but that he only got caught one time. Clary then told me that this plan intended that the statutes of limitations would run out, thus preventing shareholders from pursuing claims for relief from the securities violations of EIN. However, Clary did not tell me that HAHN had issued

approximately 1,057,565 shares of unregistered securities in Kokoweef during 2007 to approximately 580 investors at a price of $6 per share, and that those sales were still within the statute of limitations. Further, despite his representation, Clary never discussed federal compliance issues with me at or since that meeting.

6. During the September 18, 2007 meeting, Clary also advised me that the sales of securities in EIN and Kokoweef did not need to be registered with the SEC, because they fell within an exemption provided by Rule 504 of Regulation D. However, while I am not a securities expert, I now understand that the sale of securities in EIN and Kokoweef were not eligible for the exemption provided by Rule 504 of Regulation D of the SEC.

7. In regard to new shares in the proposed new company, Clary represented that he had another scheme to prevent shareholders from suing the new company for securities fraud. Clary would require each purchaser to sign a "tight" agreement which included an acknowledgment from that purchaser that they knew the new company was in compliance with all securities regulations, specifically registration exemptions. That way, Clary informed me, if any new shareholder sued, he would be able to use this agreement against them, because he was relying on civil, not criminal, standards for evidence. Clary told me he would use this agreement against any shareholders who might sue by presenting it to them at trial and asking whether they signed the "goddamned thing".

8. I also asked Clary what my personal liability would be as a Director of Kokoweef for what I perceived to be its violation of the Bylaws and for what I believed to be Defendant Larry C. Hahn's misappropriation of corporate funds to pay for his personal expenses. Clary never provided an answer to me.

9. Despite Clary's representations to me during the September 2007 meeting regarding the alleged compliance of Kokoweef, I told him I was still considering reporting these unlawful activities to the Securities and Exchange Commission ("SEC") to get guidance on the issue. Clary told me that going to the SEC was "insane", that the SEC was "the big bad wolf", that the SEC were " assholes", who"destroy companies and they destroy people." Further, Clary

told me that he didn't "want me to do anything stupid" because going to talk to the SEC was "insane" and that sticking a knife in myself would be a shorter way to solve the problem.

10. Clary's statement in paragraph 5 of his affidavit that he explained tax liability and ramifications is not accurate. He never explained these issues to me at that meeting or subsequently. During the September 2007 meeting, Clary informed me that the issuance to me of 70,000 shares of stock in Kokoweef was illegal and created a tax liability for me, and for all other shareholders who had been given shares of stock in exchange for alleged services contributed to the corporation. Clary stated that he would inform all of the shareholders that they needed to file amended tax returns, but to date, he has failed to abide by this representation. He also represented that he would send out correspondence to all shareholders with stock awards explaining the tax ramifications of the stock awards. He never, to my knowledge, did notify these other stockholders, as promised. In fact, I spoke to my tax attorney who informed me that Clary's statement regarding my tax liability for the 70,000 shares was a misrepresentation and that I would only have tax liability upon my sale of the shares and only for the amount of the equity gained while holding those shares.

11. Clary's affidavit also claims that I was aware of the alleged compliance with federal and state securities laws for the sales of shares in the new company. This is simply not true because Clary would not ever provide me answers to my questions about the existing securities violations of EIN, and how the re-organziation would properly remedy those violations to allow the shares of Kokoweef to be properly sold.

12. I was not aware, nor could I have been aware of the negligent representations Clary was making and have suffered damage as a result thereof.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on June 19th, 2009 at Las Vegas, Nevada.

TED R. BURKE

ROBERTSON & VICK, LLP

6/19/09 6:17 JLT
5081\5081.01\pJLT0584.WPD

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of June, 2009, I served a copy of the above and foregoing **PLAINTIFFS' OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT** by depositing a copy thereof for mailing at Las Vegas, Nevada, postage prepaid, addressed to:

M. NELSON SEGEL, CHARTERED
M. Nelson Segel, Esq.
624 South 9th Street
Las Vegas, NV 89101
Telephone: (702) 385-6266
Facsimile: (702) 382-2967
Attorneys for Larry Hahn and Hahn's World of Surplus, Inc.

Patrick C. Clary, Esq.
PATRICK C. CLARY, CHARTERED
City Center West, Suite 410
7201 West Lake Mead Boulevard
Las Vegas, NV 89128
Telephone: (702) 382-0813
Facsimile: (702) 382-7277
Attorneys for Kokoweef, Inc.

Marian Metoyer

Exhibit 1

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED
JAN 29 1 17 PM '09
CLERK OF THE COURT

TED R. BURKE; MICHAEL R. and LAURETTA L. KEHOE; JOHN BERTOLDO; PAUL BARNARD; EDDY KRAVETZ; JACKIE & FRED KRAVETZ; STEVE FRANKS; PAULA MARIA BARNARD; PETE T. and LISA A. FREEMAN; LEON GOLDEN; C.A. MURFF; GERDA FERN BELLBE; BOB and ROBYN TRESKA; MICHAEL RANDOLPH; and FREDERICK WILLIS, Plaintiff(s), 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; Defendant(s). AND ALL RELATED CLAIMS.	CASE NO. A558629-B DEPT. NO. XIII Date: January 12 and January 26, 2009 Time: 9:00 a.m.

DECISION AND ORDER

THIS MATTER having come before the Court on January 12, 2009 and January 26, 2009 on the motions referenced hereinbelow, and the Court, having considered the papers submitted in connection with such item(s) and heard the arguments made on behalf of the parties and then taken the matter under advisement for further consideration;

NOW, THEREFORE, the Court decides the submitted issues

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

as follows:

A. Defendant Hahn's Motion to Dismiss Amended Complaint, with Joinder by Defendants Kokoweef, Inc. And Clary (1/12/09).

The Countermotion to strike the Joinder is DENIED. The Motion is GRANTED as to the First Cause of Action. According to Plaintiffs' allegations preceding the First Cause of Action, Defendants Hahn and Clary did not "issue" securities. The issuer would be the corporation. In addition, NRS 90.640 does not provide a civil remedy to anyone other than the "administrator." Thus, the First Cause of Action is DISMISSED with prejudice.

In that the Second Cause of Action does not provide particularized statements of fraud (NRCP 9(b)) regarding the respective Plaintiffs, and in that the alleged misrepresentations to Plaintiff Burke occurred after the stock purchases outlined in paragraphs 19-32 of the First Amended Complaint, the Motion is GRANTED, and the Second Cause of Action is DISMISSED.[1]

The Motion is GRANTED as to the Third Cause of Action, as it is also devoid of particularity regarding the representations made to each Plaintiff. The Third Cause of Action is thus DISMISSED.

The Court is not of the view that negligent

---

[1]Paragraph 49 alleges that the fraud is found in the "making of false representations," but nothing is alleged regarding what was represented to each Plaintiff and by whom at the time each purchased securities.

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

misrepresentation requires the same particularity in pleading as fraud. Therefore, the Court cannot say that the Fourth Cause of Action fails to state a claim on which relief can be granted, and the Motion is thus DENIED as to such cause of action.

The Motion is GRANTED AS TO THE Fifth Cause of Action for the reasons discussed relative to the other fraud-based causes of action, and such cause of action is DISMISSED.

The Sixth Cause of Action suffers from the same lack of particularity as the other fraud-based causes of action, and the Motion is thus GRANTED as to such cause of action, and the same is DISMISSED.

The Motion is DENIED as to the Seventh, Eighth, Ninth, and Tenth Causes of Action, as they do not fail to state claims upon which relief can be granted.[2]

B. Plaintiff's Application for TRO/Preliminary Injunction and Motion for Appointment of a Receiver. (1/12/09).

The Court has dismissed the First and Second Causes of Action which contain the predicate for Plaintiffs' effort to obtain injunctive relief and appointment of a receiver.

---

[2]The Eighth and Tenth Causes of Action are the only ones that appear to be derivative. In this regard, all of the other causes of action seek monetary recovery by the Plaintiffs themselves for their own benefit; and, although the alternative remedy of rescission is sought in the Third, Fourth, Fifth, and Sixth Causes of Action, the subject corporations are named only as "Nominal Defendants."

The Court agrees with Plaintiffs that they have adequately pleaded futility of demand on the directors to sue on behalf of the corporation.

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

In any event, the Court is not persuaded that the Motion, insofar as it seeks injunctive relief, has merit relative to the stock and asset issues. Shares of stock and assets have a determinable value and all of Plaintiff's causes of action regarding the stock and assets are amenable to monetary relief. Therefore, the Motion is DENIED IN PART relative to those issues.

Defendants maintain that they are not utilizing corporate funds for payment of costs of defense. The Court will accept counsel's representation to that effect and will also DENY the Motion IN PART regarding that issue, without prejudice to renewal if discovery demonstrates that corporate funds are being so used.

Even though injunctive relief is not specifically sought in connection with any of the causes of action besides the Second, the Court will proceed to entertain the Motion for injunctive relief relative to destruction or alteration of corporate records, and the same is GRANTED to that extent; and, since the Court is only enjoining something that should not be done anyway, it considers that security in the sum of $250.00 should suffice.

Again, beyond the fact that the Court has dismissed the First and Second Causes of Action, the Court does not agree that NRS 90.640 provides for appointment of a receiver at the behest of a private litigant. Instead, subsection 1 of the statute

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

specifically states as a premise a "...showing by the administrator..."

Furthermore, with respect to seeking appointment of a receiver under NRS 32.010, the Court is not inclined at this juncture to appoint a general receiver that would take over operation of the business, and it is not persuaded that what Plaintiff seeks to inform himself about concerning corporate financial matters could not be obtained through discovery. Therefore, the Motion is DENIED IN PART insofar as it seeks appointment of a receiver, limited or otherwise.

C. Defendant Clary's Motion for Sanctions.

The Court is not in a position to determine whether sanctions are to be imposed until the underlying pleading purporting to assert causes of action against Defendant Clary is viable for purposes of further proceedings. In this regard, although certain causes of action have been dismissed against Defendant Clary, the Court considers a sanction motion to be premature. However, in making this ruling, the Court in no way intimates a view that there is a basis for Plaintiffs' contentions or that sanctions will not be appropriate.

Therefore, the sanction Motion is DENIED without prejudice to renewal after the viability of the remaining cause of action pleaded against Defendant Clary (the Fourth Cause of Action) is determined.

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

NOW, THEREFORE, IT IS HEREBY SO ORDERED, ADJUDGED, AND DECREED.

COUNSEL FOR PLAINTIFFS IS DIRECTED TO PROVIDE PROMPT WRITTEN NOTICE OF ENTRY HEREOF.

DATED this 29th day of January, 2009.

MARK R. DENTON
DISTRICT JUDGE

CERTIFICATE

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

PATRICK CLARY, ESQ.

M. NELSON SEGAL, ESQ.

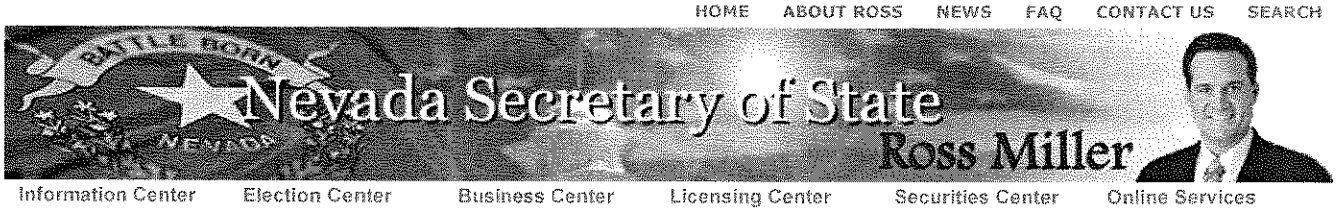
ROBERTSON & VICK
Attn: Jennifer L. Taylor, Esq.

Lorraine Tashiro

LORRAINE TASHIRO
Judicial Executive Assistant
Dept. No. XIII

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

Exhibit 2



Exemption from Registration

Depending on the nature of your security or transaction, you may not need to register an offering in Nevada. There are some 38 exemptions that fit under two broad categories:

1. **Securities Exemptions** - which focus on the nature of the security being of such a quality as not warranting registration for protection of the public, i.e., certain securities issued by federal, state or local governments, depository institutions (banks), securities listed on the New York and American Stock Exchanges, etc. (See NRS 90.520.)
2. **Transaction Exemptions** - which focus on the nature of the transaction as being one that is inappropriate or unnecessary for registration to protect the public, i.e., securities that are published in certain nationally recognized securities manuals, securities issued in connection with certain mergers or reorganizations, etc. (See NRS 90.530.)

Perhaps one of the most important transactional exemptions to a small business is the "limited offering exemption" which allows the sale of securities to 25 or fewer purchasers in the state without registration. However, certain conditions apply, i.e., there can be no general advertising or solicitation and commissions are limited to licensed broker-dealers. This exemption is generally used where the prospective investor is already known and has a pre-existing relationship with the company. (See NRS 90.530.11.)

There are also additional exemptions that have been adopted by the Administrator of the Securities Division from time to time, i.e., certain exemptions that also qualify for federal exemptions under SEC Regulation D, Rule 505 and 506. You should note that the Rule 504 exemption at the federal level is not exempt from registration in Nevada.

The overriding theme of all exemptions is that acceptable means exist for investors to have ready access to vital information in making their investment decisions without the necessity of registration.

Before you attempt to rely on any exemption, you should be absolutely certain that you qualify because there are some very gray areas. It is always recommended that you get sound legal advice before proceeding with an offering because there can be significant fines and penalties for not properly registering when required to do so. Furthermore, some exemptions require that you file a notice and fee in order to claim the exemption.

Whether you register or qualify for an exemption, the company is never excused from providing full and fair disclosure to investors. Put yourself in the shoes of an investor. If you were investing your hard-earned savings in a company like yours, what would you want to know?

Exhibit 3

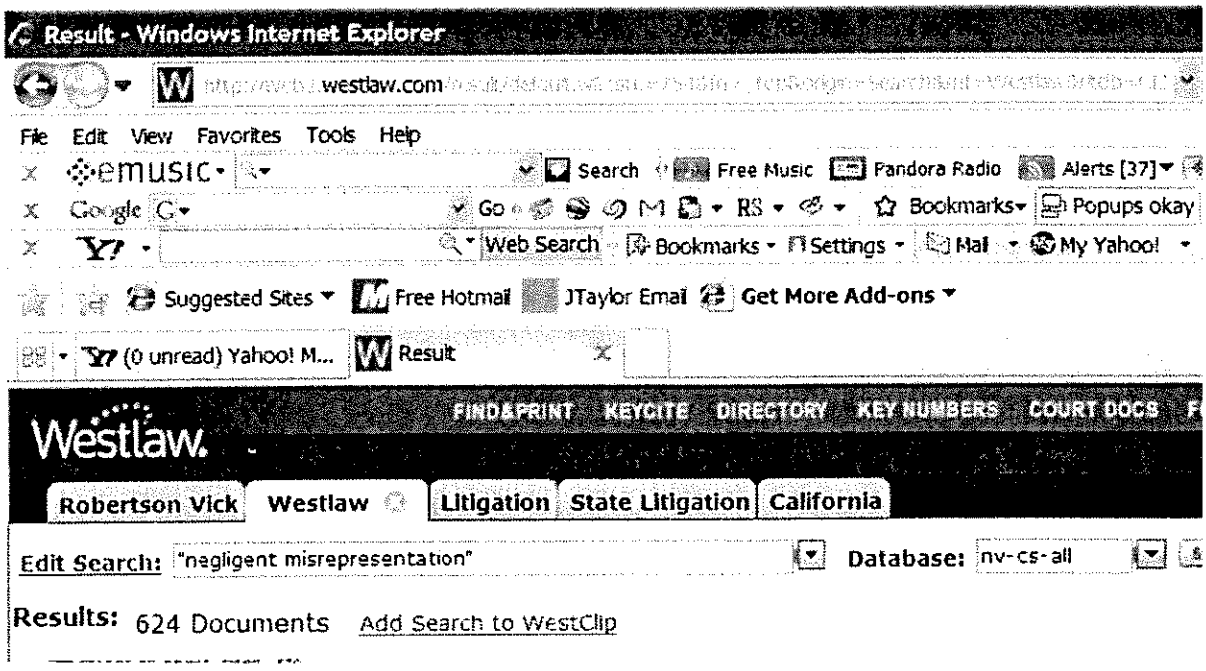

Result - Windows Internet Explorer
westlaw.com
File Edit View Favorites Tools Help
emusic
Search
Free Music
Pandora Radio
Alerts [37]
Google
Go
Bookmarks
Popups okay
Web Search
Bookmarks
Settings
Mail
My Yahoo!
Suggested Sites
Free Hotmail
JTaylor Email
Get More Add-ons
(0 unread) Yahoo! M...
Result
Westlaw
FIND&PRINT
KEYCITE
DIRECTORY
KEY NUMBERS
COURT DOCS
Robertson Vick
Westlaw
Litigation
State Litigation
California
Edit Search:
"negligent misrepresentation"
Database:
nv-cs-all
Results:
624 Documents
Add Search to WestClip

Exhibit 4

Types of Registration with the Nevada Securities Division

Registration by Coordination

This type of registration is available when a corresponding registration statement has been filed with the U.S. Securities and Exchange Commission (SEC). In most cases, a registration by coordination is one that will be offered simultaneously in several, if not all states. It usually involves larger offerings that exceed $5 million. (See NRS 90.480.)

Registration by Qualification

This method of registration is generally used when offering a security in the State of Nevada only. It cannot be offered or sold in any other state unless "qualified" there as well. Most of these offerings are small in comparison to coordination filings and are sold on a local basis because of costs associated with selling in regional or national markets. (See NRS 90.490.)

At the heart of what the Securities Division does with these registrations is to examine the required documentation to see if all material information about an investment offering, or security, is available to an investor before he/she decides to invest. In other words, full and fair disclosure of anything that would be important for an investor to know in making an informed choice.

The four most important disclosures in an offering are: (1) Operating history of the company - including financials; (2) Background and experience of officers and managers; (3) Business plan of the company - how the money will be used; and (4) Risk factors - what obstacles there are to the success of the company and what could go wrong.

If you have a new company and are just getting started, you probably do not have much of an operating history to disclose, and you may not have fully developed your business plan. These are called "development stage companies" and are viewed in the industry as having a very high risk of failure. Because of these factors, there are special rules that apply to the registration and development stage company offerings. For example, you must have a minimum capitalization of 5% of the aggregate offering price or $50,000, whichever is less. (See NAC 90.475-492.)

Perhaps the most important requirement for a development stage company, is to have specific disclosures about your business plan and intended use of the offering proceeds. Knowing how to develop a comprehensive business plan that will not only meet disclosure requirements but help you understand and forecast your business is a critical step toward success.

The overriding theme of registration with the Securities Division is to insure the availability of information to the public. However, the Securities Division does not guarantee the accuracy of such information. That is the responsibility of the company. You should never make any representation that the Securities Division has passed upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. To do otherwise is a violation of NRS 90.610 and you could be subject to criminal and/or civil penalties.

In any event, the advantages of a thorough and accurate registration statement for a small business are: (1) development of a comprehensive business plan; (2) full and fair disclosure to the investor; and (3) protection of the company against unwarranted claims of ignorance from investors.