


CLERK OF THE COURT

1 0096
2 ALEXANDER ROBERTSON, IV
3 Nevada Bar No. 8642
4 JENNIFER L. TAYLOR
5 Nevada Bar No. 5798
6 ROBERTSON & VICK, LLP
7 401 N. Buffalo Drive, Suite 202
8 Las Vegas, Nevada 89145
9 Telephone: (702) 247-4661
10 Facsimile: (702) 247-6227

11 Attorneys for Plaintiffs

12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 TED R. BURKE, MICHAEL R. and
15 LAURETTA L. KEHOE; JOHN BERTOLDO;
16 PAUL BARNARD; EDDY KRAVETZ;
17 STEVE FRANKS; PAULA MARIA
18 BARNARD; PETER T. and LISA A.
19 FREEMAN; LEON GOLDEN; C.A. MURFF;
20 GERDA FERN BILLBE; BOB and ROBYN
21 TRESKA; MICHAEL RANDOLPH, and
22 FREDERICK WILLIS,

23 Plaintiffs,

24 vs.

25 LARRY H. HAHN, individually, and as
26 President and Treasurer of Kokoweef, Inc., and
27 former President and Treasurer of Explorations
28 Incorporated of Nevada; HAHN'S WORLD OF
SURPLUS, INC., a Nevada corporation; DOES
I-X, inclusive; DOE OFFICERS, DIRECTORS
and PARTICIPANTS I-XX,

Defendants,.

and

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

Nominal Defendants.

) CASE NO. A558629

) Dept. XIII

) **MOTION FOR CLARIFICATION OF**
) **THE PRELIMINARY FINDINGS OF**
) **FACT AND CONCLUSIONS OF LAW**
) **AND ORDER GRANTING NOMINAL**
) **DEFENDANT KOKOWEEF, INC.'S**
) **RENEWED MOTION TO REQUIRE**
) **SECURITY FROM PLAINTIFFS AS**
) **DRAFTED AND SUBMITTED BY**
) **KOKOWEEF, INC.**

) DATE OF HEARING: _____

) TIME OF HEARING: _____

1 Comes now the Plaintiffs, by and through their attorneys of record, the law firm of
2 ROBERTSON & VICK, LLP and moves this honorable Court for an Order Clarifying This
3 Court's Entry of Preliminary Findings of Fact and Conclusions of Law and Order Granting
4 Nominal Defendant Kokoweef's Renewed Motion To Require Security From Plaintiffs, as
5 submitted by Kokoweef, Inc. (hereafter "Kokoweef") and signed by this Honorable Court on
6 August 26, 2008.

7 **NOTICE OF MOTION**

8 TO: ALL COUNSEL AND THEIR ATTORNEYS OF RECORD HEREIN:

9 PLEASE TAKE NOTICE that the Plaintiffs will bring the above and foregoing MOTION
10 FOR CLARIFICATION OF THE PRELIMINARY FINDINGS OF FACT AND
11 CONCLUSIONS OF LAW AND ORDER GRANTING NOMINAL DEFENDANT
12 KOKOWEEF, INC.'S RENEWED MOTION TO REQUIRE SECURITY FROM PLAINTIFFS
13 AS DRAFTED AND SUBMITTED BY KOKOWEEF, INC. on for hearing at the courtroom of
14 the above-entitled Court on the 13th day of October, 2008, at 9:00a.m. of said day, in
15 Department XIII of said Court.

16 Dated this 11th day of September, 2008.

17
18 ROBERTSON & VICK, LLP

19
20 By 

Alexander Robertson, IV
Nevada Bar No. 8642
Jennifer L. Taylor
Nevada Bar No. 5798
401 N. Buffalo Drive, Suite 202
Las Vegas, Nevada 89120
Attorneys for Plaintiffs

21
22
23
24 ///

25 ///

26 ///

27 ///

28 ///

ROBERTSON
& VICK, LLP

1 **POINTS AND AUTHORITIES**

2 **Summary of Facts:**

3 On or about July 30, 2008, an evidentiary hearing was held regarding Kokoweef's
4 Renewed Motion To Require Security From the Plaintiffs. The Court took the matter under
5 advisement after presentation of evidence and rendered its Decision on the motion on August 11,
6 2008 (hereafter the "Decision"). A true and correct copy of the Decision is attached hereto as
7 Exhibit "1".

8 On or about August 26, 2008, counsel for Kokoweef submitted to the Court its
9 Preliminary Findings of Fact and Conclusions of Law and Order Granting Defendant
10 Kokoweef's Renewed Motion To Require Security From Plaintiffs (hereafter the "Order"). A
11 true and correct copy of the Order is attached hereto as Exhibit "2". However, the Order was
12 never provided to Plaintiffs' counsel prior to its submission to the Court.

13 Counsel for Plaintiffs first saw the Order upon service of the Notice of Entry of the Order.
14 Upon review of the Order, it was evident that the Order, as drafted by Kokoweef and in
15 contravention of the Decision, was not "consistent with" the Decision (Decision 2:25-26), went
16 beyond the language of the Decision and went beyond the language of the governing statute,
17 NRS 41.520.

18 Following, for this Court's review, is a comparison of the Decision and the controlling
19 statute to the Order submitted by Defendants.

20 ///

21 ///

22 ///

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Findings of Facts and Conclusions of Law submitted by Kokoweef	Proposed Corrected Language From Court's August 11, 2008 Decision and/or NRS 41.520
<p>"Kokoweef has met its burden as the moving Defendant, under 41.520 3A to show that there is '...no reasonable possibility that the prosecution of the cause of action...will benefit the corporation or its security holders' and that Plaintiffs have failed to rebut _____ showing." Order 2:9-13.</p>	<p>The Decision noted: "The Court is persuaded the Defendant has made a <i>prima facie</i> showing on the point and that the same has not been rebutted." Decision 2: 10-12.</p> <p>Plaintiffs propose that the Order be amended to properly reflect the Court's language in the Decision.</p>
<p>"The Court has the authority to revisit the amount of security required of Plaintiffs and make adjustments of the amount of security required as the case progresses." Order 2:20-22.</p>	<p>The Decision properly noted that 41.520(4)(b) of the statute provides that the Court can adjust the amount of security one way or the other as the case progresses. Decision 2:20-22.</p> <p>Plaintiffs request that the Order be clarified to properly incorporate the language of the Decision and NRS 41.520.</p>
<p>As a matter of law, Kokoweef has met its burden as the moving Defendant, under 41.520(3)(a), to show that there is '...no reasonable possibility that the prosecution of the cause of action...will benefit the corporation or its security holders' and that the Plaintiffs have failed to rebut such showing." Order 2:26-28, 3:1-2.</p>	<p>The Decision again merely noted that Kokoweef had made a "<i>prima facie</i>" showing on whether there was a reasonable possibility that the prosecution of the cause of action would benefit the corporation or its security holders. Decision 2:10-12.</p> <p>Accordingly, Plaintiffs request that this Conclusion of Law within the Order be clarified to correctly reflect the language of the Decision.</p>
<p>[I]t is hereby...ORDERED that in the event the Plaintiffs fail to post the security within the limitations set forth hereinabove, as set forth in NRS 41.50(b)(4), the above-captioned case shall be dismissed, with prejudice without any further order of this Court. Order 3:23-26.</p>	<p>First, clarification of this language is necessary as it contains a typographical error, specifically "NRS 41.50(b)(4)" as opposed to the correct notation of the statute, NRS 41.520(4)(b).</p> <p>Second, neither the Decision, nor NRS 41.520 contemplate dismissal <u>with prejudice</u> for failure to timely post the required security.</p> <p>Third, neither the Decision nor NRS 41.520(4)(b) contemplates an automatic dismissal without further action by Defendant.</p> <p>Accordingly, Plaintiffs request that the Order be clarified to be consistent with the Decision and to reflect the proper language of the statute, which omits any reference to dismissal with or without prejudice.</p>

1 "[I]t is further ORDERED that,
2 notwithstanding the dismissal of the above-
3 captioned case, the Court shall retain
4 jurisdiction herein to enable Defendants to
submit a request to the Court for an award
of attorneys' fees and costs incurred
herein." Order 3:27-28, 4:1-2.

Neither the Decision, nor NRS 41.520
contemplate a subsequent award of attorneys'
fees and costs. Accordingly, Plaintiffs request
that this language be stricken so that the Order
will be consistent with the Decision and
accurately reflect the language of NRS 41.520

5
6 For the Court's reference and convenience, Plaintiffs have attached their proposed
7 Amended Findings of Fact and Conclusions of Law which, as noted above, are consistent with
8 the Decision and NRS 41.520.

9 **LEGAL AUTHORITY**

10 Courts possess inherent authority to reconsider prior orders. Trail v. Faretto, 91 Nev.
11 401, 536 P.2d 1026 (1975) (concluding that "a court may, for sufficient cause shown, amend,
12 correct, resettle, modify or vacate, as the case may be, an order previously made and entered on
13 the motion in the progress of the cause or proceeding"). EDCR 2.24 ratifies this procedure in
14 Clark County.

15 Plaintiffs specifically seek clarification and/or reconsideration of the Order because it is
16 not consistent with the Decision and/or NRS 41.520. Therefore, it contains misstatements of the
17 law of this case, as set forth in the Decision, and is appropriate for clarification and/or
18 reconsideration. As noted above, Plaintiffs have attached hereto, as Exhibit "3", Proposed
19 Findings of Fact and Conclusions of Law and Order consistent with the Decision, and the
20 language of NRS 41.520. Plaintiffs request that the Court adopt its Findings of Fact and
21 Conclusions of Law and Order.

22 DATED: 9/11/08

ROBERTSON & VICK, LLP

23
24 By: 

ALEXANDER ROBERTSON, IV

Bar No. 8642

JENNIFER L. TAYLOR

Bar No. 5798

401 N. Buffalo Drive, Suite 202

Las Vegas, Nevada 89145

ROBERTSON
& VICK, LLP

Exhibit “1”

ORIGINAL

DISTRICT COURT

FILED

CLARK COUNTY, NEVADA

AUG 11 3 39 PM '08

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

Plaintiffs,

vs.

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

Defendant(s),

and

KOKOWEEF, INC.; EXPLORATIONS
INCORPORATION OF NEVADA,

Nominal Defendants.

CLERK OF THE COURT

CASE NO. A558629

DEPT. NO. XIII

Date: July 30, 2008

Time: 9:00 a.m.

DECISION

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

NOW, THEREFORE, the Court decides the submitted issues as

MARK R. DENTON
DISTRICT JUDGE

DEPARTMENT THIRTEEN
LAS VEGAS, NV 89165

RECEIVED

AUG 11 2008

CLERK OF THE COURT

1 follows:

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

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

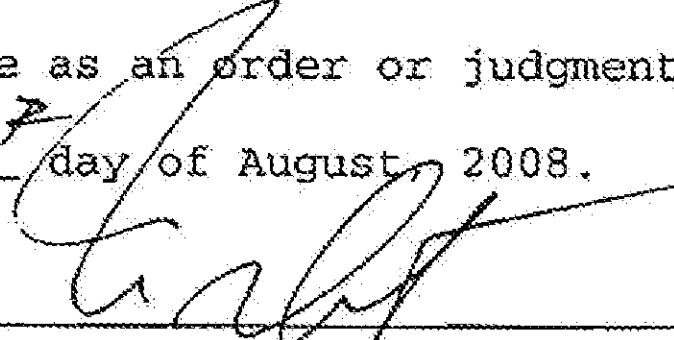
16 However, the Court is not persuaded that the security
17 required should be of the magnitude sought at this point by
18 Defendant. Instead, the Court will order security in the sum of
19 \$75,000.00. In this regard, the Court takes some comfort in the
20 language of subsection 4(b) of the statute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

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

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

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

6 DATED this 11th day of August, 2008.

7
8 
9 MARK R. DENTON
DISTRICT JUDGE

10
11 CERTIFICATE

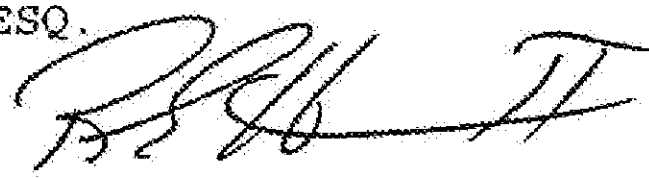
12 I hereby certify that on the date filed, I placed a copy
13 of the foregoing in the attorney's folder in the Clerk's Office or
14 mailed a copy to:

15 NEIL J. BELLER, ESQ.

16 M. NELSON SEGEL, ESQ.

17 CLARY CANNON

18 Attn: PATRICK C. CLARY, ESQ.

19 
20 LORRAINE TASHIRO
21 Judicial Executive Assistant
22 Dept. No. XIII

23
24
25
26
27
28 MARK R. DENTON
DISTRICT JUDGE

DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

Exhibit “2”

1 NOTC
CLARY CANNON LLP
2 Patrick C Clary
Nevada Bar No. 53
3 Curtis W. Cannon
Nevada Bar No. 10535
4 7201 W. Lake Mead Boulevard, Suite 503
Las Vegas, Nevada 89128
5 Telephone: 702.382.0813
FAX: 702.382-7277
6

Attorneys for so-called Nominal
7 Defendant Kokoweef, Inc.
8

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 -ooo-

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

16 Plaintiffs

17 vs.

18 LARRY L. HAHN, individually, and as)
19 President of and Treasurer of Kokoweef,)
Inc., and former President and)
20 Treasurer of Explorations Incorporated)
of Nevada; HAHN'S WORLD OF SURPLUS,)
21 INC., a Nevada corporation; DOES I-X,)
inclusive; DOE OFFICERS, DIRECTORS and)
22 PARTICIPANTS I-XX,)

23 Defendants,

24 and

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

27 Nominal Defendants.
28

CASE NO. A558629
DEPT. XIII

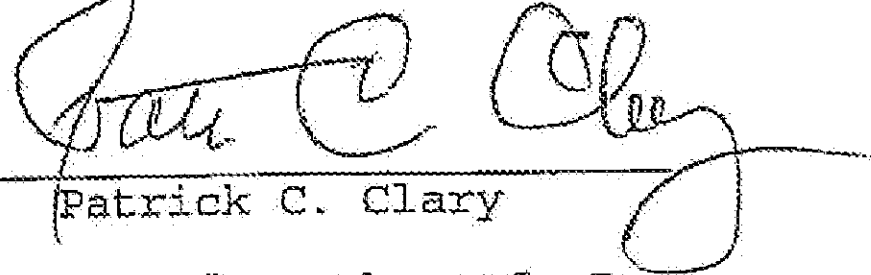
NOTICE OF ENTRY OF
PRELIMINARY FINDINGS OF
FACT AND CONCLUSIONS OF
LAW AND ORDER GRANTING
DEFENDANT KOKOWEEF'S
RENEWED MOTION TO REQUIRE
SECURITY FROM PLAINTIFFS

DATE OF HEARING: 7/30/08
TIME OF HEARING: 9:00 a.m.

LAW OFFICES OF
CLARY CANNON LLP
7201 WEST LAKE MEAD BOULEVARD, SUITE 503
LAS VEGAS, NEVADA 89128
TEL: 702.382.0813 - FAX: 702.382.1277

1 NOTICE IS HEREBY GIVEN that on August 27, 2008 there was entered
2 in the above-captioned case this Court's Preliminary Findings of Fact
3 and Conclusions of Law and Order Granting Defendant Kokoweef's Renewed
4 Motion to Require Security from Plaintiffs, a copy of which is
5 attached hereto and incorporated herein by this reference.

6 CLARY CANNON LLP

7
8 By 
Patrick C. Clary


9 Attorneys for Kokoweef, Inc.
10

11 RECEIPT IS HEREBY ACKNOWLEDGED of a copy of the above and
12 foregoing Notice of Entry of Preliminary Findings of Fact and
13 Conclusions of Law and Order Granting Defendant Kokoweef's Renewed
14 Motion to Require Security from Plaintiffs on the 28 day of August,
15 2008.

16 NEIL J. BELLER, LTD.

17
18 By _____
Neil J. Beller
Nevada Bar No. 002360

19 Attorneys for Plaintiffs
20 7408 West Sahara Avenue
Las Vegas, Nevada 89117

21
22 
23 M NELSON SEGEL
Nevada Bar No. 000530
24 Attorney for Larry L Hahn and
Hahn's World of Surplus, Inc.
25 724 South Ninth Street
Las Vegas, Nevada 89101
26
27
28

LAW OFFICES OF
CLARY CANNON LLP
7201 WEST LAKE MEAD BOULEVARD, SUITE 503
LAS VEGAS, NEVADA 89128
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1 FFCL
2 CLARY CANNON LLP
3 Patrick C Clary
4 Nevada Bar No. 53
5 City Center West, Suite 503
6 7201 West Lake Mead Boulevard
7 Las Vegas, Nevada 89128
8 Telephone: 702.382.0813
9 FAX: 702.382-7277

10 Attorneys for Defendant Kokoweef, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

-oOo-

11 TED R. BURKE; MICHAEL R. and LAURETTA)
12 L. KEHOE; JOHN BERTOLDO; PAUL BERNARD;)
13 EDDY KRAVETZ; JACKIE and FRED KRAVETZ;) CASE NO. A558629
14 STEVEN FRANKS; PAULA MARIA BARNARD;) DEPT. XIII
15 PETE T. and LISA A. FREEMAN; LEON)
16 GOLDEN; C.A. MURFF; GERDA FERN BILLBE;)
17 BOB and ROBYN TRESKA; MICHAEL RANDOLPH,)
18 and FREDERICK WILLIS,)
19 Plaintiffs,)
20 vs.)
21 LARRY L. HAHN, individually, and as)
22 President of and Treasurer of Kokoweef,)
23 Inc., and former President and)
24 Treasurer of Explorations Incorporated)
25 of Nevada; HAHN'S WORLD OF SURPLUS,)
26 INC., a Nevada corporation; DOES I-X,)
27 inclusive; DOE OFFICERS, DIRECTORS and)
28 PARTICIPANTS I-XX,)
29 Defendants,)
30 and)
31 KOKOWEEF, INC., a Nevada corporation;)
32 EXPLORATIONS INCORPORATED OF NEVADA, a)
33 dissolved Nevada corporation;)
34 Nominal Defendants.)

CASE NO. A558629
DEPT. XIII

PRELIMINARY FINDINGS OF
FACT AND CONCLUSIONS OF
LAW AND ORDER GRANTING
DEFENDANT KOKOWEEF'S
RENEWED MOTION TO REQUIRE
SECURITY FROM PLAINTIFFS

DATE OF HEARING: 7/30/08
TIME OF HEARING: 9:00 am

The Renewed Motion to Require Security from Plaintiffs filed

FILED

AUG 28 10 21 AM '08

CLERK OF COURT

LAW OFFICES OF
CLARY GANNON LLP
7201 WEST LAKE MEAD BOULEVARD, SUITE 503
LAS VEGAS, NEVADA 89128
TEL 702.382.0813 - FAX 702.382.7277

1 herein on June 12, 2008 by so-called Nominal Defendant Kokoweef, Inc.
2 ("Kokoweef") having come on for an evidentiary hearing on July 30,
3 2008, the Court having taken its decision on the said Motion under
4 advisement after presentation of evidence and having fully considered
5 the evidence adduced and the post-hearing briefs submitted by counsel
6 for the Plaintiffs and for Kokoweef, and the Court being fully advised
7 in the premises, the Court finds as follows:

8 PRELIMINARY FINDINGS OF FACT

9 1. Kokoweef has met its burden as the moving Defendant, under NRS
10 41.520(3)(a) to show that there is " . . . no reasonable possibility
11 that the prosecution of the cause of action . . . will benefit the
12 corporation or its security holders" and that the Plaintiffs have
13 failed to rebut such showing.

14 2. Therefore, the Court will require a modicum of security given
15 what appears preliminarily to be the likely consequences of the
16 continuation of this litigation on the well-being of the corporation.

17 3. At this time the security required should not be of the
18 magnitude sought by Kokoweef so that the amount of security is to be
19 in the sum of \$75,000.

20 4. The Court has the authority to revisit the amount of security
21 required of Plaintiffs and make adjustments of the amount of security
22 required as the case progresses.

23 PRELIMINARY CONCLUSIONS OF LAW

24 Based on the foregoing preliminary findings, the Court concludes
25 as follows:

26 1. As a matter of law Kokoweef has met its burden as the moving
27 Defendant, under NRS 41.520(3)(a), to show that there is " . . . no
28 reasonable possibility that the prosecution of the cause of action .

LAW OFFICES OF
CLARY GANNON LLP
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LAS VEGAS, NEVADA 89128
TEL: 702.382.0513 - FAX: 702.382.7277

1 . . will benefit the corporation or its security holders" and that the
2 Plaintiffs have failed to rebut such showing.

3 2. As a matter of law Kokoweef is entitled to an amount of
4 security to be posted by the Plaintiffs in the sum of \$75,000.

5 3. Pursuant to Subsection 4(b) of NRS 41.520, as a matter of law
6 the Court is entitled to revisit its determination one way or the
7 other as the above-captioned case progresses.

8 ORDER

9 Based upon the foregoing preliminary findings and conclusions,
10 and good cause otherwise showing, it is hereby

11 ORDERED that the aforesaid Renewed Motion to Require Security
12 from Plaintiffs be, and the same hereby is, granted on and subject to
13 the terms and conditions contained herein; and it is further

14 ORDERED that, within 15 days from and after the date of service
15 of notice of entry of this Order, the Plaintiffs be, and they hereby
16 are, directed to post with the Clerk of the Court for the purposes set
17 forth in NRS 41.520 the sum of \$75,000 in cash or bond; and it is
18 further

19 ORDERED that the stay of the above-captioned case shall, and it
20 hereby is directed to, remain in full force and effect until 10 days
21 after the posting of the \$75,000 security required by this Order; and
22 it is further

23 ORDERED that in the event the Plaintiffs fail to post the
24 security within the limitations set forth hereinabove, as set forth
25 in NRS 41.50(b)(4), the above-captioned case shall be dismissed, with
26 prejudice without any further order of this Court; and it is further

27 ORDERED that, notwithstanding the dismissal of the above-
28 captioned case, the Court shall retain jurisdiction herein to enable

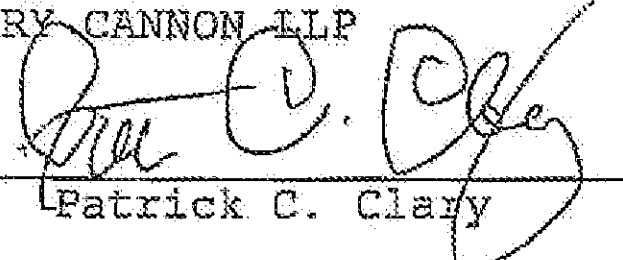
LAW OFFICES OF
CLARY CANNON LLP
7201 WEST LAKE MEAD BOULEVARD, SUITE 503
LAS VEGAS, NEVADA 89128
TEL: 702.382.0813 • FAX: 702.382.7277

1 Defendants to submit a request to the Court for an award of
2 attorneys's fees and costs incurred herein.

3 DATED this 24 day of August, 2008.

4
5 MARK R. DENTON
6 DISTRICT JUDGE

7 CLARY CANNON LLP

8 By 
9 Patrick C. Clary

10 Attorneys for Defendant Kokoweef, Inc.

Exhibit “3”

1 **FFCL**
2 **ALEXANDER ROBERTSON, IV**
3 **Nevada Bar No. 8642**
4 **JENNIFER L. TAYLOR**
5 **Nevada Bar No. 5798**
6 **ROBERTSON & VICK, LLP**
7 **401 N. Buffalo Drive, Suite 202**
8 **Las Vegas, Nevada 89145**
9 **Telephone: (702) 247-4661**
10 **Facsimile: (702) 247-6227**

11 Attorneys for Plaintiffs

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **TED R. BURKE, MICHAEL R. and**
15 **LAURETTA L. KEHOE; JOHN BERTOLDO;**
16 **PAUL BARNARD; EDDY KRAVETZ;**
17 **STEVE FRANKS; PAULA MARIA**
18 **BARNARD; PETER T. and LISA A.**
19 **FREEMAN; LEON GOLDEN; C.A. MURFF;**
20 **GERDA FERN BILLBE; BOB and ROBYN**
21 **TRESKA; MICHAEL RANDOLPH, and**
22 **FREDERICK WILLIS,**

23 Plaintiffs,

24 vs.

25 **LARRY H. HAHN, individually, and as**
26 **President and Treasurer of Kokoweef, Inc., and**
27 **former President and Treasurer of Explorations**
28 **Incorporated of Nevada; HAHN'S WORLD OF**
29 **SURPLUS, INC., a Nevada corporation; DOES**
30 **I-X, inclusive; DOE OFFICERS, DIRECTORS**
31 **and PARTICIPANTS I-XX,**

32 Defendants,

33 and

34 **KOKOWEEF, INC, a Nevada corporation;**
35 **EXPLORATIONS INCORPORATED OF**
36 **NEVADA, a dissolved corporation;**

37 Nominal Defendants.

) CASE NO. A558629
) Dept. XIII

) **[PROPOSED] PRELIMINARY FINDINGS**
) **OF FACT AND CONCLUSIONS OF LAW**
) **AND ORDER GRANTING DEFENDANT**
) **KOKOWEEF'S RENEWED MOTION TO**
) **REQUIRE SECURITY FROM**
) **PLAINTIFFS**

) DATE OF HEARING: _____
) TIME OF HEARING: _____

1 The Renewed Motion to Require Security from Plaintiffs filed herein on June 12, 2008 by
2 Nominal Defendant Kokoweef, Inc. ("Kokoweef") having come on for an evidentiary hearing on
3 July 30, 2008, the Court having taken its decision on the said Motion under advisement after
4 presentation of evidence and having fully considered the evidence adduced and the post-hearing
5 briefs submitted by counsel for the Plaintiffs and for Kokoweef, and the Court being fully
6 advised in the premises, the Court finds as follows:

7 **PRELIMINARY FINDINGS OF FACT**

8 1. Kokoweef has made a *prima facie* showing, to meet its burden as the moving
9 Defendant, under NRS 41.520(3)(a), that there is "...no reasonable possibility that the
10 prosecution of the cause of action...will benefit the corporation or its security holders" and that
11 Plaintiffs have failed to rebut such showing.

12 2. Therefore, the Court will require a modicum of security given what appears
13 preliminarily to be the likely consequences of the continuation of this litigation on the well-being
14 of the corporation.

15 3. At this time the security required should not be of the magnitude sought by Kokoweef
16 so that the amount of security is to be in the sum of \$75,000.

17 4. The Court has the authority to revisit the amount of security required of Plaintiffs and
18 make adjustments of the amount of security required, one way or the other, as the case
19 progresses.

20 **PRELIMINARY CONCLUSIONS OF LAW**

21 Based on the foregoing preliminary findings, the Court concludes as follows:

22 1. As a matter of law Kokoweef made a *prima facie* showing, to meet its burden as the
23 moving Defendant, under NRS 41.520(3)(a), that there is "...no reasonable possibility that the
24 prosecution of the cause of action ... will benefit the corporation or its security holders" and that
25 the Plaintiffs have failed to rebut such showing.

26 2. As a matter of law Kokoweef is entitled to an amount of security to be posted by the
27 Plaintiffs in the sum of \$75,000.

3. Pursuant to Subsection 4(b) of NRS 41.520, as a matter of law, the Court is entitled to revisit its determination one way or the other as the above-captioned case progresses.

ORDER

Based upon the foregoing preliminary findings and conclusions, and good cause otherwise showing, it is hereby

ORDERED that the aforesaid Renewed Motion To Require Security From Plaintiffs be, and the same hereby is, granted on and subject to the terms and conditions contained herein; and it is further

ORDERED that, within 15 days from and after the date of service of notice of entry of this Order, the Plaintiffs be, and they hereby are, directed to post with the Clerk of the Court for the purposes set forth in NRS 41.520 the sum of \$75,000 in cash or bond; and it is further

ORDERED that the stay of the above-captioned case shall, and it hereby is directed to, remain in full force and effect until 10 days after the posting of the \$75,000 security required by this Order; and it is further

ORDERED that in the event the Plaintiffs fail to post the security within the limitations set forth hereinabove, as set forth in NRS 41.520(4)(b), the above-captioned case shall be dismissed without prejudice.

DATED this day of September, 2008.

DISTRICT JUDGE

ROBERTSON & VICK, LLP

By Jennifer L. Taylor

Attorneys for Plaintiffs

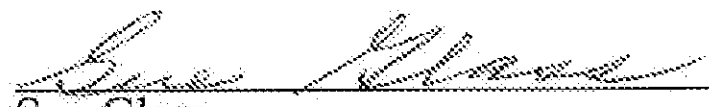
ROBERTSON
& VICK, LLP

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of September, 2008, I served a copy of the above and foregoing **MOTION FOR CLARIFICATION OF THE PRELIMINARY FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER GRANTING NOMINAL DEFENDANT KOKOWEEF, INC.'S RENEWED MOTION TO REQUIRE SECURITY FROM PLAINTIFFS AS DRAFTED AND SUBMITTED BY KOKOWEEF, INC.** 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
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Sue Glass