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14 Attorneys for Defendants,
15 Donald Roger Glenn and
16 Edwards Angell Palmer and Dodge LLP

17 DISTRICT COURT
18 CLARK COUNTY, NEVADA

19 CMKM DIAMONDS, INC.,
20
21 Plaintiff,

22 vs.

23 URBAN CASAVANT; THE UAJC 2005
24 IRREVOCABLE TRUST; MIKE
25 WILLIAMS; DESHAWN L. WAYNE;
26 BRIAN DVORAK; JAMES KINNEY;
27 GINGER GUTIERREZ; P.A. HOLDINGS,
28 INC.; BUCKO LLC; DONALD ROGER
GLENN; EDWARDS ANGELL PALMER
AND DODGE LLP; RENDAL
WILLIAMS; CIERRA WILLIAMS;
MONTE VERDE INTERNATIONAL
HOLDINGS LLC; PATRICIA E.
DECOSTA; DOES 5-20; and ROES 3-20,

Defendants.

CASE NO. A540161

DEPARTMENT: XIII

JOINT CASE CONFERENCE REPORT

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JOINT CASE CONFERENCE REPORT

DISCOVERY PLANNING/DISPUTE
CONFERENCE REQUESTED:

YES _____ NO X

I.

PROCEEDINGS PRIOR TO CASE CONFERENCE REPORT

- A. DATE OF FILING OF COMPLAINT: April 25, 2007
- B. DATE OF FILING FIRST AMENDED COMPLAINT: August 13, 2009
- C. DATE OF FILING PARTIAL MOTION TO DISMISS BY:
Defendants, DONALD ROGER GLENN and
EDWARDS ANGELL PALMER & DODGE, LLP October 23, 2009
- D. DATE OF FILING SECOND AMENDED COMPLAINT: January 5, 2010
- E. DATE OF FILING OF ANSWER BY:
Defendants, DONALD ROGER GLENN and
EDWARDS ANGELL PALMER & DODGE, LLP January 21, 2010
No other defendants have answered or filed responsive pleadings.
- F. DATE THAT EARLY CASE CONFERENCE WAS HELD AND WHO
ATTENDED: February 17, 2010
 - 1. Bill Frizzell of the Frizzell Law Firm and David Koch of Koch & Scow
LLC on behalf of Plaintiff, CMKM DIAMONDS, INC (“CMKM”).
 - 2. James R. Condo, Patricia Lee Refo, and John S. Delikanakis of Snell &
Wilmer L.L.P. on behalf of Defendants, DONALD ROGER GLENN and EDWARDS ANGELL
PALMER & DODGE, LLP (“GLENN AND EAPD”).

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1 **II.**

2 **A BRIEF DESCRIPTION OF THE NATURE OF THE ACTION**
3 **AND EACH CLAIM FOR RELIEF OR DEFENSE: [16.1(c)(1)]**

4 A. Description of the action:

5 Plaintiff, CMKM seeks to recover damages from those who assisted prior CMKM
6 management in a massive dilution of company stock. CMKM alleges numerous individuals
7 obtained “ill gotten gains” as a result of the illegal issuance of common stock of CMKM.
8 CMKM further alleges that other individuals received fees and stock without paying
9 consideration or performing services for such stock and/or fees.

10 In answering Plaintiff’s complaint, Defendants, GLENN AND EAPD deny the allegations
11 contained in the complaint. Defendants deny that they assisted prior CMKM management in a
12 massive dilution of the company stock and that they obtained “ill-gotten gains” from CMKM.
13 Defendants further deny that they received any CMKM stock, and deny that they received fees
14 without paying consideration or performing services for such fees.

15 B. Claims for relief against Defendants GLENN AND EAPD:

- 16 1. Self-Dealing and Breach of Fiduciary Duties;
- 17 2. Civil Conspiracy;
- 18 3. Breach of Contract;
- 19 4. Negligence-Legal Malpractice (vicariously through the acts of Glenn);
- 20 5. Sterilization of Stock.

21 C. Claims for relief against other Defendants:

- 22 1. Conversion;
- 23 2. Self-Dealing and Breach of Fiduciary Duties;
- 24 3. Usurpation of Corporate Opportunity;
- 25 4. Constructive Trust;
- 26 5. Civil Conspiracy;
- 27 6. Unjust Enrichment;
- 28 7. Negligence;

- 1 8. Fraud; and
- 2 9. Sterilization of Stock.

3 D. Affirmative Defenses:

4 1. Plaintiff's damages, if any, were solely caused and contributed to by
5 Plaintiff's own negligence, or were caused or contributed to by the conduct of others for whom
6 Defendants are not responsible;

7 2. Plaintiff's claims are barred by the applicable statute of limitations;

8 3. Plaintiff's claims are barred by the doctrine of *in pari delicto*;

9 4. Plaintiff's claims are barred by the doctrine of laches;

10 5. Plaintiff's claims fail to state a claim against Defendants on which relief
11 can be granted;

12 6. Plaintiff's claims are barred by the doctrine of unclean hands;

13 7. Plaintiff's punitive damages claims violate the EAPD Defendants' right to
14 due process and equal protection of the laws as guaranteed by the United States Constitution and
15 by the Constitution of the State of Nevada, and would further be improper under the statutes,
16 common law and public policies of the State of Nevada;

17 8. Defendants were entitled to rely and did rely on representations by CMKM
18 and its representatives in rendering legal services to CMKM;

19 9. CMKM and its representatives withheld material information from
20 Defendants and/or made material false representations to Defendants intending that Defendants
21 would rely on same.

22 **III.**

23 **LIST OF ALL DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS IN**
24 **THE POSSESSION, CUSTODY OR CONTROL OF EACH PARTY WHICH WERE**
25 **IDENTIFIED OR PROVIDED AT THE EARLY CASE CONFERENCE OR AS A**
26 **RESULT THEREOF: [16.1(a)(1)(B) and 16.1(c)(4)]**

27 A. Plaintiff: Plaintiff has agreed to include in its initial disclosures the following
28 categories of documents:

- 1 • Complete information concerning all lawsuits in which CMKM was/is either plaintiff or
- 2 defendant since 2004,
- 3 • Complete information concerning all judgments entered in favor of or against CMKM.
- 4 • Complete information concerning any settlements entered into by CMKM since 2004
- 5 (regardless of whether litigation was actually filed),
- 6 • All written or recorded statements of any witnesses, including deposition transcripts.
- 7 • CMKM board minutes, resolutions and agendas
- 8 • All documents relating to CMKM's damages calculation, specifically including the names
- 9 of the shareholders and number of shares to whom CMKM alleges that stock was issued
- 10 without consideration.
- 11 • All subpoenas (estimated to be approx 100) served by CMKM upon various banks,
- 12 trading firms and casinos, including all responses and any custodian of records affidavits -
- 13 Interestingly, we confirmed that CMKM has never subpoenaed records from Desmoreau,
- 14 Stoecklein or Levine and we have express permission to do so and we can represent that
- 15 CMKM has waived any privileges (attorney-client or accountant-client) it may hold
- 16 applicable to those groups of documents.
- 17 • Transcripts and exhibits of all depositions taken by the SEC
- 18 • First Global stock transfer records (estimated to be approx 75,000)
- 19 • NASD investigation file involving NevWest/CMKM (estimated to be approx 30,000)
- 20 • An index of documents formerly held by CMKM's outside counsel, Lizzie Baird of
- 21 O'Melveny & Meyers
- 22 • All exhibits referenced in Plaintiff's May 2008 demand letter
- 23 • 10 bank accounts from Bank of America
- 24 • 6 bank accounts from Community Bank of Nevada
- 25 • 10 bank accounts from Nevada State Bank
- 26 • 20 bank accounts from Silver State Bank
- 27 • 4 bank accounts from Sun West Bank
- 28 • 9 bank accounts from Wells Fargo Bank
- 1 bank account from Washington Mutual
- Casino Records from 9 casinos pertaining to Urban Casavant
- 19 stock trading accounts from various CMKM insiders at various brokerage houses
- Hearing transcript for the 12j proceeding in Los Angeles in May of 2005

- 1 • NASD investigation and the NASD complaint involving NevWest/CMKM First Global
2 stock transfer of records

3 B. Defendant: Defendants GLENN AND EAPD will re-produce the documents it has
4 already produced with new bates numbers specific to this litigation. Defendants GLENN AND
5 EAPD will also produce a copy of the relevant insurance policy.

6 **IV.**

7 **LIST OF PERSONS IDENTIFIED BY EACH PARTY AS LIKELY TO HAVE**
8 **INFORMATION DISCOVERABLE UNDER RULE 26(b), INCLUDING**
9 **IMPEACHMENT OR REBUTTAL WITNESSES: [16.1(a)(1)(A) and 16.1(c)(3)]**

- 10 A. Plaintiff: None.
11 B. Defendant: None.

12 **V.**

13 **DISCOVERY PLAN [16.1(b)(2) and 16.1(c)(2)]**

14 A. What changes, if any, should be made in the timing, form or requirements for
15 disclosures under 16.1(a):

- 16 1. Plaintiff's view: See Section VI.
17 2. Defendant's view: See Section VI.

18 When disclosures under 16.1(a)(1) were made or will be made:

- 19 1. Plaintiff's disclosures: March 3, 2010
20 enter calendar date
21 2. Defendant's disclosures: March 3, 2010
22 enter calendar date

23 B. Subjects on which discovery may be needed:

- 24 1. Plaintiff's view: All subjects referenced in the complaint and affirmative
25 defenses.
26 2. Defendant's view: All subjects referenced in the complaint and affirmative
27 defenses.

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1 C. Should discovery be conducted in phases or limited to or focused upon particular
2 issues?

3 1. Plaintiff's view: No.

4 2. Defendant's view: No.

5 D. What changes, if any, should be made in limitations on discovery imposed under
6 these rules and what, if any, other limitations should be imposed?

7 1. Plaintiff's view: None.

8 2. Defendant's view: None.

9 E. What, if any, other orders should be entered by court under Rule 26(c) or Rule
10 16(b) and (c):

11 1. Plaintiff's view: None.

12 2. Defendant's view: None.

13 F. Estimated time for trial:

14 1. Plaintiff's view: _____.
15 (number of court days)

16 2. Defendant's view: 7 – 10 days.
17 (number of court days)

18 **VI.**

19 **DISCOVERY AND MOTION DATES [16.1(c)(5)-(8)]**

20 A. Dates agreed by the parties:

21 1. Final date for CMKM to file Motion for Service by Publication February 26, 2010

22 2. Initial Disclosures March 3, 2010

23 3. Final date to file motions to amend pleadings or
24 add parties (without a further court order): May 15, 2010

25 4. Plaintiff to designate general categories on which it
26 will offer expert testimony and name of expected expert(s) June 1, 2010

27 5. Defendants to designate general categories on which
28 they will offer expert testimony and name of expected expert(s) July 1, 2010

- 1 6. Close of all fact discovery: October. 29, 2010
- 2 7. Plaintiff to disclose expert testimony pursuant to Rule 16.1(a)(2) November. 19, 2010
- 3 9. Defendants to complete deposition(s) of Plaintiff expert(s) December. 17, 2010
- 4 10. Defendants to disclose expert testimony pursuant to Rule 16.2(a)(2) January 21, 2011
- 5 11. Close of all expert discovery February. 25, 2011
- 6 12. Final date to file dispositive motions: March 18, 2011
- 7 13. Final date to file Response to dispositive motions: April 15, 2011
- 8 14. Final date to file Replies in support of dispositive motions: April 29, 2011

VII.

JURY DEMAND [16.1(c)(10)]

A jury demand has been filed: No.

VIII.

INITIAL DISCLOSURES/OBJECTIONS [16.1(a)(1)]

If a party objects during the Early Case Conference that initial disclosures are not appropriate in the circumstances of this case, those objections must be stated herein. The Court shall determine what disclosures, if any, are to be made and shall set the time for such disclosure.

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This report is signed in accordance with rule 26(g)(1) of the Nevada Rules of Civil Procedure. Each signature constitutes a certification that to the best of the signer's knowledge, information and belief, formed after a reasonable inquiry, the disclosures made by the signer are complete and correct as of this time.

Dated: February _____, 2010

Dated: February _____, 2010

By: _____
David R. Koch, Esq.
KOCH & SCOW LLC
11500 S. Eastern Ave., Suite 110
Henderson, NV 89052

By: _____
James R. Condo, Esq.
Patricia Lee Refo, Esq.
John S. Delikanakis, Esq.
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Las Vegas, NV 89169

Attorneys for Plaintiff,
CMKM DIAMONDS, INC.

Attorneys for Defendants,
*DONALD ROGER GLENN and EDWARDS
ANGELL PALMER & DOGE LLP*

Dated: February _____, 2010

By: _____
Bill Frizzell, Esq.
FRIZZELL LAW FIRM
602 South Broadway
Tyler, TX 75701

Attorneys for Plaintiff,
CMKM DIAMONDS, INC.