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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
03/02/2015
Clerk of the Court
BY: ANNA TORRES
Deputy Clerk

Attorneys for C.B.F., Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

JESUS ZAPANTA

Plaintiff,

vs.

C. B. F., INC.,

Defendant(s).

Case No.: CGC 15-543476

**CROSSCOMPLAINT FOR
DECLARATORY RELIEF AND TO
COMPEL ARBITRATION**

C. B. F., INC.

Cross Complainant

Related Case: CGC 14- 542856

v.

JESUS ZAPANTA, JOHN WALSH,
MICHELLE WALSH, LEANNE GOFF,
DAVID SEFLARDS, NOVELYNN TEJADA
and Does 1 through 100n inclusive;
Cross Defendants

Cross Complainant, C.B.F., Inc. alleges as follows:

FIRST CAUSE OF ACTION - DECLARATORY RELIEF

1. Cross Complainant C.B.F., Inc.. is a defendant in this matter and the related matter (CGC 14-542856). This action seeks involuntary dissolution of Cross Complaint by Cross Defendant Zapata who owns 1.9% of the outstanding shares of Cross Complaint (hereinafter "CBF").

1 Cross complainant incorporates by reference the complaints of Plaintiff in this action and the
2 related case for reference on, as if fully set forth at length.

- 3 2. The related matter (**CGC 14- 542856**) is a share holder derivative action by Zapanta, Cross
4 Defendants JOHN WALSH, MICHELLE WALSH, LEANNE GOFF, DAVID SEFLARDS,
5 NOVELYNN TEJADA are the remaining shareholders of CBF and joined herein as necessary
6 parties.
7
- 8 3. On December 21, 2006 the parties, and each of them, hereto entered into a Stock Purchase
9 Agreement, which was ratified by all shareholders, concerning the sale of shares to John Walsh,
10 this transaction is at the heart of both Plaintiff's allegations in this matter and the related case.
11 The parties also directly executed a "First Amended and Restated Stock Buy/Sell Agreement for
12 C.B.F., Inc" dated December 21, 2006 which enabled the Stock transfer to be completed. That
13 agreement contains a Dispute resolution clause making resolution of any dispute among the
14 shareholders the subject of mandatory, binding Arbitration.
15
16
- 17 4. The existence of the two separate actions creates the risk of inconsistent and contradictory
18 results, the decision in one matter would impact the rights and obligations of the shareholders
19 which are not named by Plaintiff Zapanta.
- 20 5. The shareholders not joined by Plaintiff Zapanta are LEANNE GOFF, DAVID SEFLARDS,
21 NOVELYNN TEJADA and these shareholders, CBF and Defendant Walsh have Appraisal rights
22 pursuant to Corporations Code 2000 which proceeding by Zapanta will not be addressed in this
23 action.
24
- 25 6. The allegations of this action and the related case create a situation where the normal and
26 customary conduct of business by CBF is difficult as Plaintiff has alleged acts and omissions by
27
28

1 the controlling shareholder and if that share holder is prevented from voting his shares the
2 corporation is without a quorum for any action whatsoever.

3 7. CBF is informed and believes that the actions complained of by Plaintiff fall within the Business
4 Judgment Rule and Corporations Code 309(a)(3) and that they were and are in the best interests
5 of the corporation.
6

7 8. Without a determination by this court of the following there is a significant risk of damage to
8 the corporation, the interests of all the share holders, inconsistent rulings and rendering the
9 corporation unsaleable:

10 A. Loans by the corporation to John Walsh for completing the stock purchase agreement were
11 sound and in the best interests of the corporation;
12

13 B. Transactions regarding the Corporations leveraged real property in Brisbane and the
14 circumstances related to the transfer of title, assumption of liabilities, personal guarantees,
15 and options to re-purchase were fair, equitable and in the best interests of the corporation
16 and its shareholders;
17

18 C. Other loans to John Walsh were fair, equitable and in the best interest of the corporation and
19 its shareholders;
20

21 D. None of the acts of the corporation alleged, or the acts of its controlling shareholder or
22 directors rendered the corporation insolvent, unable to pay its creditors, or damaged the
23 share value or future value of the corporation as a whole;

24 E. That the salary and other compensation paid to John Walsh and other employees of the
25 corporation was fair and equitable at all times;
26

27 F. A determination of the number of shares entitled to vote concerning the approval of any
28 settlement in this matter, the percentage ownership of Plaintiff and the other shareholders

1 and the ability of the Directors to function, or in the alternative, appointment by the court of
2 interim directors capable of impartially protecting the corporation, and all of its
3 shareholders;

4 G. the value of Plaintiff Zapanta's shares pursuant to Corporations Code 2000;

5
6 H. The right of John Walsh and any other shareholder or director to reimbursement by the
7 corporation for their costs of defense in this action and the related case, including attorneys
8 fees;

9 I. The standing of Plaintiff as holding only 1.9% of the shares to maintain this action;

10 J. A determination of the fair and equitable actions require to protect the corporation and all
11 of its shareholders from abuse by any shareholder(s).
12

13 WHEREFORE Cross Complaint Prays for judgement as hereinafter set forth;

14 PETITION TO COMPEL ARBITRATION

15 9. Defendant C.B.F., Inc. INCORPORATES by reference paragraphs 1, 2, and 3 of this complaint
16 as if herein after set forth.
17

18 10. This action should be stayed until contractual arbitration is had and completed, or dismissed
19 pending arbitration.

20 WHEREFORE, Cross Complaint prays for judgement as follows:

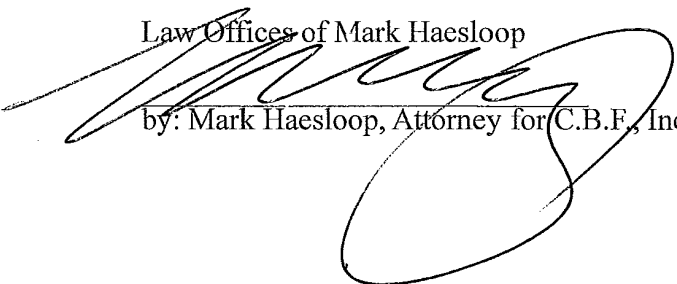
- 21 1. For an order staying or dismissing this action pending Arbitration;
22
23 2. For a determination by this court that all loans by CBF to John Walsh were fair and equitable
24 and shareholder approval of these loans was not required; or in the alternative a determination if
25 any were appropriate and if not what John Walsh should do to make the corporation whole;
26
27 3. For a determination of the fairness of any and all real property transactions and forming a
28 remedy if any be required;

- 1 4. Employee compensation has been fair and equitable or a determination of a remedy;
- 2 5. A determination that Plaintiff Zapanta owns 500 shares of common stock which represents
- 3 1.9% of the stock of the corporation;
- 4 6. A determination of the value of Plaintiff's shares;
- 5 7. ant and further determinations which the court deems just and proper to effectuate full and final
- 6 relief among the parties.
- 7
- 8 8. For Costs of suit.

9 DATED: February 26, 2015

Law Offices of Mark Haesloop

by: Mark Haesloop, Attorney for C.B.F., Inc.



1 **CALIFORNIA STATE COURT PROOF OF SERVICE**

2 Jesus Zapanta v. C.B.F., Inc.,
3 San Francisco Superior Court # CGC 15-543476

4 STATE OF CALIFORNIA, COUNTY OF SAN MATEO

5 At the time of service, I was over 18 years of age and not a party to the action. My
6 business address is 600 EL CAMINO REAL, BELMONT, CA 94002,.

7 On date below, I served the following document(s):

- 8 - Answer to Verified Complaint
9 - Cross Complaint for Declaratory Relief and to Compel Arbitration

10 *The documents were served upon the known addresses of Persons Interested in*
11 *this action as follows:*

12 *Gerald P. Burleson, Esq*
13 *PO Box 927628*
14 *San Diego, CA 92192*
15 *jerry@jerryburleson.com*

Paul J. Barulich, Esq.
Alexandra Banis, Esq.
Barulich & Dugoni
400 S. El Camino Real, Suite 1000
San Mateo, CA 94402
paul@bdlawinc.com

16 The documents were served by the following means:

17 ☐ By Personal Delivery to the Address indicated Above

18 ☒ (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to
19 the persons at the addresses listed herein and (specify one):

20 ☒ Deposited the sealed envelope or package with the U.S. Postal Service, with the postage
21 fully prepaid.

22 ☐ (BY U.S. Mail / Certified Return Receipt Requested) by depositing the above described
23 envelopes with Certified, First Class Postage and Return Receipt Requested Cards, prepaid with
24 the US Postal Service at San Carlos, CA 94070

25 ☐ (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package
26 provided by an overnight delivery carrier and addressed to the persons at the addresses
27 listed above. I placed the envelope or package for collection and delivery at an office or
28 a regularly utilized drop box of the overnight delivery carrier.

☒ By email addressed as indicated above.

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

Executed on February 27, 2015 at Belmont, California.


Mark Haesloop