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G. FRANZ

1 CASE NO. 04 0C 01066 1B

2 DEPT. NO. I

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5  
6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

8  
9 JAMES NUNES, individually and  
10 on behalf of other stockholders  
11 similarly situated,  
12 MERVYN WEISS, individually and  
13 on behalf of other stockholders  
14 similarly situated, and  
15 WALLACE NESBITT, individually,

16 Plaintiffs,

17 vs.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
JUDGMENT

18 COLUMBUS NETWORKS CORPORATION,  
19 a Nevada corporation, DAN COLLINS,  
20 also known as DANIEL COLLINS,  
21 an individual, BRIAN A. CONRAD, an  
22 individual, and DOES 1-10 and ABC  
23 COMPANIES/ENTITIES 1-10, inclusive,

24 Defendants.

25 \_\_\_\_\_ /  
26 AND RELATED COUNTERCLAIM.  
27 \_\_\_\_\_ /

28 THIS MATTER was tried before the Court beginning March 24, 2008, for half a day, for  
a full day on March 25, 2008, and the Court heard closing arguments on March 26, 2008.

Plaintiffs James Nunes and Mervyn Weiss were present in court, accompanied by their counsel,  
Donald A. Lattin. Defendant Daniel Collins was present in court, accompanied by his counsel,  
Hannah Irsfeld. Defendant Brian Conrad failed to appear.

During the course of the trial, the Court heard the testimony of parties James Nunes and  
Dan Collins, and CPA Carlene Gaydosh, and admitted exhibits into evidence. The Court also

1 considered the pleadings and records in this matter, including the evidence presented in  
2 connection with Plaintiff's summary judgment motion, and the injunction briefing and evidence  
3 considered by Judge Griffin, and the appropriate orders issued by Judge Griffin. After  
4 considering the record, all of the witnesses' testimony and examining the exhibits accepted into  
5 evidence at trial, and after weighing all of that evidence before the Court, and considering the  
6 arguments of counsel, the Court now renders its Findings of Fact, Conclusions of Law, and  
7 Judgment.

### 8 FINDINGS OF FACT

9 1. Columbus Networks Corporation, a Nevada corporation ("CNC-NV" or the  
10 "Corporation") is duly organized and existing under the laws of the State of Nevada, and it was  
11 originally incorporated on June 17, 1997, under the name "Golden River Resources, Inc."

12 2. CNC-NV's name change occurred following its acquisition/reverse takeover  
13 ("RTO") of Columbus Networks Corporation of British Columbia ("CNC-BC"), a company  
14 incorporated under the laws of the Province of British Columbia, Canada, pursuant to a Share  
15 Exchange Agreement filed with the Securities and Exchange Commission on or about October  
16 25, 2000.

17 3. The Share Exchange Agreement provided for the issuance of certain shares in the  
18 Corporation to the holders of all of the issued and outstanding shares in the capital of CNC-BC,  
19 in exchange for their shares in CNC-BC.

20 4. CNC-NV is the sole shareholder of CNC-BC.

21 5. CNC-NV stock is publicly traded, and CNC-NV is a public company.

22 6. CNC-NV is qualified to do business, and doing business, in Nevada and  
23 elsewhere (e.g., United States and Canada), with its principal office located in Carson City,  
24 Nevada. The fiscal year of CNC-NV ends on June 30th of each year.

25 7. The RTO, or merger, took place on or about December 8, 2000.

26 8. After the RTO, the principal business activity of CNC-NV became developing  
27 electronic recruitment websites which were developed as one-stop internet portals for education  
28 organizations and professionals. Educational job seekers are able to access large databases of

1 educational employers in the United States and Canada seeking to fill positions in teaching,  
2 administration, and support staff areas. Employers posting job listings pay for their postings, but  
3 the service is free to job-seekers.

4 9. Defendant Daniel Collins, also known as Dan Collins ("Collins"), is an individual  
5 who was formerly the President, CEO and a Director of CNC-NV and of CNC-BC.

6 10. Collins has a college degree in business management from BCIT in Canada.

7 11. While Collins was in charge of the Corporation from 2000 through mid-2004,  
8 there were ongoing financial problems, he treated it as his own personal property, he failed to get  
9 the required shareholder approval for his actions, and/or keep the shareholders informed or  
10 advised of what was going on, he took money that belonged to the Corporation for his own use,  
11 few Canadian tax returns (1999 and 2000), and no U.S. tax returns had ever been filed, and he  
12 purported to transfer a large block of the Corporation's shares to Defendant Conrad without any  
13 due diligence on his part and without shareholder approval.

14 12. Defendant Brian A. Conrad is an individual ("Conrad") who was purportedly the  
15 recipient of 24,410,677 shares of the Corporation through a purported corporate resolution in  
16 May, 2004, by virtue of an unauthorized issuance of shares by Defendant Collins for which he  
17 (Conrad) had given no value, and which the shareholders who were not Collins' family members  
18 did not know about beforehand.

19 13. Collins' justification for his actions was that he was trying to unwind the RTO  
20 transaction.

21 14. No formal shareholder meetings had ever been held under Collins' management.

22 15. Minimal Canadian and no U.S. tax returns were ever filed while Collins was in  
23 charge of CNC-NV.

24 16. Collins failed to keep proper records or a "paper trail" of his or the Corporation's  
25 financial transactions from 2002 to 2004.

26 17. In or about May and June, 2004, Plaintiff Nunes began to take a more active role  
27 in CNC-NV, and raised questions as to Collins' management of the Corporation.

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1 18. CNC-NV shareholders were contacted by telephone and in writing by Plaintiffs.

2 19. A majority of the shareholders voted to oust Collins via written Consent  
3 Resolutions, and voted to place Plaintiffs in control of the Corporation.

4 20. On or about June 9, 2004, Consent Resolutions signed by more than 50% of  
5 CNC-NV stockholders elected Nunes and confirmed Weiss and Nesbitt as Board members of  
6 CNC-NV.

7 21. On or about June 18, and June 19, 2004, the new Board of CNC-NV passed a  
8 Directors' Consent Resolution to terminate Defendant Collins from all positions within CNC-  
9 NV.

10 22. The Plaintiffs also, in their capacity as Board members of CNC-BC, likewise  
11 terminated Mr. Collins from all positions within CNC-BC and appointed Nunes as President and  
12 CEO of both CNC-NV and CNC-BC.

13 23. Plaintiffs Nunes and Weiss, accompanied by a bailiff, personally delivered a  
14 termination letter to Collins in Kelowna, British Columbia, Canada, on July 6, 2004.

15 24. Collins and his associates called the Royal Canadian Mounted Police ("RCMP"),  
16 disputing Plaintiffs' authority to operate the Corporation, so Plaintiffs retained a security  
17 company to protect corporate property and assets.

18 25. Plaintiffs had to have the locks changed to prevent the landlord, who was  
19 sympathetic to Collins, from letting Collins in the back door.

20 26. Because of its electronic recruiting, CNC-NV's servers are integral and essential  
21 to the viability of CNC-NV's business.

22 27. Plaintiffs had to change the Corporation's servers at Interland because the  
23 programmer, Ray Lamb, was sympathetic to Collins, and because some data and files might have  
24 been lost or deleted through remote access.

25 28. When Plaintiff Nunes became President and CEO of the Corporation, he and  
26 others conducted an investigation by, among other things, going through bank statements, and  
27 they discovered numerous irregularities by Collins, including Collins' use of corporate funds to

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1 pay for unauthorized gasoline expenses, a leased vehicle, advances, personal credit card  
2 payments, and unauthorized entertainment expenses.

3 29. Unbeknownst to Plaintiffs, Collins, on the advice of counsel, felt he had been  
4 wrongfully terminated from CNC-BC, and he had already filed paperwork to change the name of  
5 CNC-BC to Blue Storm Media Works on or about June 22, 2004, prior to his termination.  
6 Collins had, prior to termination, sought an investigation into the RTO by REMP.

7 30. Collins opened a post office box on July 22, 2004, after his termination, in the  
8 name of the Corporation and had CNC-NV checks that belonged to the Corporation diverted to  
9 his post office box. Collins also received other checks that were located on the Corporation's  
10 property with the help of a CNC-NV employee, Shawna Lundin.

11 31. Collins renamed CNC-BC's bank account at Canada Trust Bank in Canada under  
12 the name of Blue Storm Media Works, over which he had sole control, and he deposited diverted  
13 funds that belonged to the Corporation into that unauthorized bank account.

14 32. Collins used his personal VISA card for some minimal corporate transactions, and  
15 Collins used Corporation funds to pay up to four of his personal VISA accounts.

16 33. Collins also borrowed \$18,000 from the Corporation and never paid it back.

17 34. Collins used CNC-NV funds to pay for lease payments for a Chevrolet Avalanche  
18 truck, and to buy tires for Collins' Corvette.

19 35. Collins used CNC-NV funds to pay Telus charges for Collins' cell phone.

20 36. Collins took approximately \$26,306.05 of CNC-NV funds out of the  
21 Corporation's bank account at TD Canada Trust.

22 37. Collins took approximately \$32,396.67 in Canadian dollars and \$4,597.00 in U.S.  
23 dollars of CNC-NV funds that were provided to him by Shawna Lundin and/or gathered from  
24 funds in company mail that was diverted to his P.O.Box, and Collins used that money to pay for  
25 personal expenses.

26 38. Plaintiffs requested that Collins return the money to the Corporation, but there  
27 was no response from Collins.

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1           39.     Plaintiffs initiated this action on or about July 26, 2004, with their Verified  
2 Complaint containing the following claims: (1) shareholder derivative claim, (2) declaratory  
3 relief, (3) breach of fiduciary duties, (4) appointment of a corporate custodian or receiver, (5)  
4 conversion, and (6) accounting.<sup>1</sup>

5           40.     In December, 2004, after holding two evidentiary hearings, hearing witness  
6 testimony, and reviewing the evidence and the parties' briefs, including Plaintiffs' motion for a  
7 preliminary injunction, Judge Griffin issued a Preliminary Injunction in favor of Plaintiffs, which  
8 provides in pertinent part as follows:

9           1. JAMES NUNES, MERVYN WEISS and WALLACE NESBITT are given full  
10 and complete authority as Directors to run the business of COLUMBUS  
11 NETWORKS NEVADA ("CNC-NV") and COLUMBUS NETWORKS B.C.  
12 ("CNC-BC"). These Directors, as well as any future directors, are fully authorized  
13 to operate CNC-NV and CNC-BC under the Articles of Incorporation dated June  
14 13, 1997 and [the bylaws and Nevada corporate laws].

15           2. That this Court places no limitations on the Directors' activities in running the  
16 corporation other than those imposed by the Articles of Incorporation...and the  
17 general obligations [of Nevada corporate laws]. ...

18           See Preliminary Injunction filed December 9, 2004. Paragraph 5 of the Preliminary Injunction  
19 specified that it would "remain in effect until further order" of the First Judicial District Court.

20           Id.

21           41.     In December, 2004, Plaintiffs posted the bond ordered by Judge Griffin in the  
22 Preliminary Injunction.

23           42.     Plaintiffs have been in control of the Corporation since July, 2004.

24           43.     Dispositive motion briefing was filed in November and December, 2006.

25           44.     In its January 31, 2007, Order ruling on the Plaintiffs' Motion for Summary  
26 Judgment (hereafter "SJ Order" followed by the page and line numbers), the Court granted the  
27 Plaintiffs' claim for declaratory relief. SJ Order at 4:6-26 and 5:1-5.

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28           <sup>1</sup>Defendants asserted counterclaims on or about September 14, 2004, for (1) intentional  
interference with contract, (2) defamation, (3) abuse of process, (4) civil conspiracy, (5) accounting,  
and (6) injunctive relief, to which Plaintiffs/Counterdefendants filed their Reply to Counterclaim  
on or about November 24, 2004.

1 45. Plaintiffs' Second Claim for declaratory relief at paragraphs 56-59 of the Verified  
2 Complaint filed July 26, 2004, provided as follows:

3 56. Plaintiffs have legally protectible interests in protecting their  
4 ownership interests in the Corporation, and in its continued viability, without the  
5 purposeful interference of Dan Collins, Brian Conrad, and CNC-NV, who have  
6 been purporting to act on behalf of themselves, the Corporation and CNC-BC, to  
the detriment of the shareholders, and in invalidating the *void ab initio* purported  
transfer of in excess of twenty four million *unauthorized* shares to Defendant  
Brian A. Conrad, and the purported transfer of CNC-BC to Collins and others.

7 57. The issues involved in these controversies revolving around  
8 control of CNC-NV are ripe for this Court's determination.

9 58. Plaintiffs request that the Court declare the respective rights and  
10 interests of the parties, and order Defendants to cease and desist the activities  
11 described herein, and any other acts that will endanger the viability of the  
Corporation, and to protect and preserve the interests of the lawfully elected  
Board of the Corporation, and the rights and interests of the Plaintiffs and  
shareholders.

12 59. Plaintiffs have incurred and continue to incur legal fees and other  
13 substantial costs as a result of the failure and refusal on the part of Dan Collins,  
14 Brian Conrad, the Corporation, to comply with the provisions of the Articles of  
Incorporation, the Bylaws, and the laws of the State of Nevada.

15 46. Plaintiffs' Sixth Claim for an accounting at paragraphs 80-82 of the Verified  
16 Complaint provided as follows:

17 80. Dan Collins, as president and CEO of CNC-NV, and Brian Conrad  
18 as purported President, CEO, Secretary, Treasurer and Director of CNC-NV since  
19 May 18, 2004, had access to corporation bank accounts, and/or accounts from  
20 similar financial institutions. During the period of Collin's and/or Conrad's  
management of CNC-NV, monies were removed from these bank and/or financial  
accounts.

21 81. Defendants Collins and Conrad should be ordered to account for  
22 any and all funds expended from these accounts during the period of their  
purported management up to and including the present.

23 82. Plaintiffs have incurred and continue to incur legal fees and other  
24 substantial costs as a result of the failure and refusal on the part of Dan Collins,  
Brian Conrad, and the Corporation, to comply with the provisions of the Articles  
of Incorporation, the Bylaws, and the laws of the State of Nevada.

25 47. The Court granted the Plaintiffs' claim for an accounting in ruling on Plaintiffs'  
26 summary judgment motion. SJ Order at 7:18-21.

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1 48. Plaintiffs paid the bond premium renewals in 2005, 2006, and 2007, and the bond  
2 is in full force and effect at this time, and has remained in full force and effect since Plaintiffs  
3 were initially ordered to post the bond in December, 2004.

4 49. The Corporation's revenues have grown since 2004.

5 50. Plaintiffs hired professionals in accounting to compile and file tax returns with the  
6 Internal Revenue Service in the United States, and the Canadian Revenue Agency in Canada. In  
7 February and March, 2008, the Corporation filed the returns for the following years:

<u>Calendar year for Corporation income tax returns</u>	<u>Fiscal year end of CNC-NV</u>
2001	June 30, 2002
2002	June 30, 2003
2003	June 30, 2004
2004	June 30, 2005
2005	June 30, 2006
2006	June 30, 2007

8  
9  
10  
11  
12 51. Defendant's CPA, Carlene Gaydosh, testified that there is no way she would have  
13 taken on the task of doing the tax returns for the company based on the condition of the records.

14 52. At the time this case was commenced in July, 2004, Plaintiffs Nunes and Weiss  
15 were shareholders of the Corporation CNC-NV. Plaintiff Nesbitt is a former and current director  
16 of the Corporation.<sup>2</sup>

17 53. Defendant Brian Conrad did not appear for the trial on March 24, 25, or 26, 2008.

18 54. The Corporation has been damaged by Collins taking funds from the Corporation  
19 for his own use and/or non-Corporation related purposes, and it is entitled to be repaid.

20 55. Any amounts that were paid in Canadian funds are to be converted to U.S.  
21 Dollars, as the Court finds that conversion is fair to the parties.

22 **NOTE: The listings and amounts of damages set forth in the Conclusions of Law below will**  
23 **reflect the awards that the Court has made from Plaintiffs' exhibits that were admitted**  
24 **into evidence at trial. Application of the appropriate currency conversions will be set forth**  
25 **in the portion entitled "Judgment" beginning at page 22 below and in the referenced**  
26 **exhibits to this Judgment.**

27  
28 <sup>2</sup>Plaintiff James Nunes is a CNC-NV shareholder and he is currently the president and CEO  
of CNC-NV.



1 CONCLUSIONS OF LAW

2 If any Finding of Fact is considered to be a Conclusion of Law, or any Conclusion of  
3 Law is considered to be a Finding of Fact, it is the Court's intention that it be so considered.

4 1. This Court's prior ruling on Plaintiffs' summary judgment motion granted  
5 Plaintiffs' declaratory judgment claim, for which Plaintiffs are entitled to judgment.

6 2. Based on this Court's prior ruling on Plaintiffs' summary judgment motion  
7 granting Plaintiffs' declaratory relief claim, the purported issuance of any CNC-NV shares to  
8 Defendant Conrad by Defendant Collins were unauthorized, *ultra vires*, and void *ab initio*.

9 3. Defendant Conrad has no shares in CNC-NV, and therefore no ownership interest  
10 in CNC-NV.

11 4. Defendant Conrad is in default for failing to appear at trial.

12 5. This Court's prior ruling on Plaintiffs' summary judgment motion granted  
13 Plaintiffs' accounting claim, for which Plaintiffs are entitled to judgment. The financial data and  
14 evidence presented by Plaintiffs at trial contain satisfactory evidence to support a monetary  
15 judgment in favor of Plaintiffs.

16 6. Based on the December 9, 2004 Order by Judge Griffin, the Plaintiffs have taken  
17 control of the Corporation, they have prepared financial statements, and they have brought the  
18 tax filings up-to-date.

19 7. The Court's conclusions regarding the Plaintiffs' specific claims for relief are as  
20 follows:

21 8. Plaintiffs' First Claim for Relief – Shareholder derivative claim. NRCP 23.1  
22 provides that one or more shareholders of a corporation may file a verified complaint to enforce  
23 a right of that corporation when that corporation has failed to enforce a right which may properly  
24 be asserted by it. A derivative claim is one brought by a shareholder on behalf of the corporation  
25 to recover for harm done to the corporation. Cohen v. Mirage Resorts, Inc., 119 Nev. 1, 19, 62  
26 P.3d 720 (2003). The Court concludes that it is appropriate to grant this shareholders' derivative  
27 claim to the extent that it verifies and justifies the actions taken by Judge Griffin on December 9,  
28 2004, which the Court concludes were appropriate.

1           9.       Plaintiffs' Third Claim for Relief – Breach of fiduciary duties. A corporate officer  
2 or director stands as a fiduciary to the corporation, and this relationship requires a duty of good  
3 faith, honesty and full disclosure. Leavitt v. Leisure Sports, Inc., 103 Nev. 81, 86, 734 P.2d  
4 1221 (1987). Under Nevada law, corporate officers and directors owe fiduciary, contractual, and  
5 statutory duties of the utmost good faith, fair dealing, honesty, loyalty to his/her corporation. See  
6 NRS 78.037; see also NRS 78.752.

7           The Court concludes that with respect to the Blue Storm Media name change transaction,  
8 Collins' actions did not rise to the level of breach of fiduciary duty because he sought legal  
9 advice in respect to that transaction, and he got board approval.

10           With respect to the Plaintiffs' remaining breach of fiduciary duties claims, the Court  
11 concludes that because Collins was the President of the Corporation, he had an obligation to do  
12 the things that were proper in respect to operating it, and that Collins did not follow the  
13 procedures that a reasonable, prudent officer of a corporation would do. Collins essentially went  
14 out on his own trying to unwind the RTO transaction without appropriate authority from the  
15 shareholders, and he did things he should not have done. Collins' conversion of the  
16 Corporation's funds for his own use is part of his breach of fiduciary duty. Collins also failed to  
17 make timely reports to shareholders, failed to file the appropriate tax returns, and failed to file  
18 appropriate SEC documentation, all of which bordered on intentional misconduct. The evidence  
19 shows that the unreasonable interference by Defendants with the Corporation's legitimate  
20 business interests constitutes a breach of Defendants' fiduciary duties. In short, Collins breached  
21 his fiduciary duties to the Corporation. Plaintiffs are therefore entitled to judgment in their favor  
22 on their Third Claim for Relief, as follows:

23	the cell phone telephone bill in July, 2004	\$	1,398.83
24	Jeep expenses after Collins' termination		2,233.42
25	computer data analysis and recovery		2,136.85
26	Chubb Security		716.97
27	a portion of Maupin, Cox & LeGoy legal fees awarded as damages that were specifically pled		50,000.00
28			

1 Subtotal of damages for breach of \$ 56,486.07  
2 fiduciary duties by Collins

3 10. Plaintiffs' Fourth Claim for Relief for appointment of corporate custodian/  
4 receiver.

5 The Court concludes on the basis of the evidence that Plaintiffs Nunes and Weiss are  
6 shareholders of the Corporation, as required by NRS 78.347, and Plaintiffs collectively hold at  
7 least one-tenth of the validly issued and outstanding stock of CNC-NV, as required by NRS  
8 78.650. The evidence shows the substantial efforts of Plaintiffs to sustain CNC-NV as a viable  
9 and growing concern. The Court concludes that the appropriate people were removed from the  
10 Corporation (Collins and Conrad), the appropriate were put in control and have been in control  
11 of the Corporation since July, 2004, and December, 2004 (Plaintiffs). The Court also concludes  
12 that this claim is somewhat moot at this point in time, but to the extent that this Court is  
13 reaffirming Judge Griffin's Order on December 9, 2004, the appropriate actions were taken.  
14 Plaintiffs are therefore entitled to judgment in their favor on their Fourth Claim for Relief.

15 11. Plaintiffs' Fifth Claim for Relief for conversion. Conversion is a distinct act of  
16 dominion wrongfully exerted over another's personal property in denial of, or inconsistent with  
17 his title or rights therein or in derogation, exclusion, or defiance of such title or rights. Evans v.  
18 Dean Witter Reynolds, Inc., 116 Nev. 598, 606, 5 P.3d 1043 (2000). Further, conversion is an act  
19 of general intent and is not excused by care, good faith, or lack of knowledge, and generally a  
20 question of fact. Id.

21 This Court previously granted Plaintiffs' summary judgment motion as to Collins'  
22 conversion of a camera. SJ Order at 7:16. Additionally, the Court concludes that the testimony  
23 and evidence supports many aspects of Plaintiffs' remaining conversion claim. Collins' actions  
24 were inappropriate, to a large extent, in regards to operating the Corporation in 2003 and 2004  
25 from an accounting standpoint in respect to what transpired. For those amounts that were paid in  
26 Canadian dollars, they should be converted to U.S. dollars, as the Court concludes that is fair to  
27 the parties.

28 ///

1 Plaintiffs are therefore entitled to judgment in their favor and against Defendants on

2 Plaintiffs' Fifth Claim for Relief, as follows:

3	loan to Collins	\$ 18,000.00
4	The lease payments on the Avalanche	35,431.58
5	Interest payment on note (check no. 001)	1,333.32
6	check no. 003 to Dan Collins	286.65
7	check no. 0003 to Dan Collins for expenses	675.31
8	check no. 0012 to Dan Collins	2,400.00
9	check no. 0017 to Dan Collins	300.00
10	payment to VISA for Collins' travel	500.00
11	VISA payment	1,000.00
12	check no. 0021 to Dan Collins	78.90
13	check no. 0023 to VISA	500.00
14	check no. 0024 to Fountain Tire for tires for the Avalanche	950.14
15	check no. 0027 for interest on Note	800.00
16	check no. 0032 to Don Folk Chevrolet for	
17	Avalanche expenses	366.95
18	VISA payment	1,000.00
19	VISA payment	1,000.00
20	check no. 0041 to Chrysler Financial for the	
21	Avalanche	994.31
22	VISA payment	1,000.00
23	VISA payment	1,000.00
24	check no. 0051 to Dan Collins for expenses	933.21
25	interest payment for October	800.00
26	check no. 0060 for an advance to Collins	1,000.00
27	check no. 0061 for an advance to Collins	1,000.00
28		

1	VISA payment	500.00
2	check no. 0026 to Collins (interest)	800.00
3	VISA payment	1,000.00
4	VISA payment	1,000.00
5	check no. 0068 advance to Collins	1,000.00
6	check no. 0071 advance to Collins	1,000.00
7	VISA advance to Collins	1,000.00
8	cash advance to Collins	500.00
9	Collins' interest payment	800.00
10	vehicle insurance to ICBE 1/04 through 5/04	1,474.91
11	(only as to the Avalanche)	
12	advance to Collins	1,000.00
13	Collins' interest payment	800.00
14	VISA payment	1,000.00
15	advance to Collins	2,000.00
16	advance to Collins/VISA	1,500.00
17	advance to Collins/VISA	2,100.00
18	Collins' interest payment	1,000.00
19	advance to Collins/VISA	2,100.00
20	advance to Collins/VISA	3,000.00
21	Don Folk Chevrolet Oldsmobile (for the Avalanche)	257.94
22	entertainment expenses in March, 2004	194.58
23	gasoline expense over the allowable \$200/mo. for March 2004	239.55
24		
25	VISA payment	2,500.00
26	VISA advance	2,000.00
27	Collins' interest payment	800.00
28	VISA advance	3,000.00

1	gasoline expense over the allowable \$200/mo. for April, 2004	396.35
2	Don Folk Chevrolet Oldsmobile	10.31
3	Bubbles	22.42
4	VISA advance	1,500.00
5	Collins' interest payment	1,000.00
6	VISA advance	3,000.00
7	VISA advance	751.27
8	check no. 0112, advance to Collins	4,181.43
9	Bubbles	22.42
10	entertainment expenses for April, 2004	317.66
11	entertainment expenses for May, 2004	180.54
12	gasoline expense over the allowable \$200/mo. for May, 2004	358.19
13	check no. 0114, advance to Dan Collins	500.00
14	VISA advance	2,000.00
15	VISA advance	2,000.00
16	MasterCard advance	2,000.00
17	check no. 0115, advance to Dan Collins	1,000.00
18	check no. 0116, advance to Dan Collins	600.00
19	VISA advance	3,000.00
20	VISA advance	3,000.00
21	Collins' interest payment	800.00
22	check no. 0125, advance to Collins	1,000.00
23	check no. 0126, advance to Collins	955.80
24	advance to Collins	1,000.00
25	advance to VISA/Collins	3,000.00
26	advance to Collins	1,000.00
27	advance to VISA/Collins	3,000.00
28		

1	VISA advance	1,500.00
2	Fountain Tire (tires for Collins' Corvette)	1,281.42
3	VISA advance	1,500.00
4	MasterCard advance	2,000.00
5	Subtotal of Plaintiffs' damages for Collins' conversion	\$ <u>146,795.16</u>

7 Amounts taken by Collins on or after July 6, 2004:

8 With respect to monies that Collins took from the Corporation after July, 2004, these  
9 amounts are awarded in full, as the money belongs to the Corporation and it was inappropriately  
10 diverted, as follows:

11 Funds diverted from TD Bank

12	7/7/04 VISA payment	4,000.00
13	7/7/04 VISA payment	3,000.00
14	7/7/04 VISA payment	3,500.00
15	7/7/04 AMEX payment	3,900.00
16	CAD draft	6,300.00
17	MBNA MasterCard	2,000.00
18	CAD draft	3,606.05
19	Subtotal	\$ <u>26,306.05</u>

20 Checks diverted from the Corporation to Collins or from diversion to P.O.Box

21	<u>Canadian funds</u>		<u>U.S. Funds</u>	
22	7/6/04 Inv. No. 2141	660.00	7/6/04 Inv. No. 1794	1,500.00
23	7/7/04 Inv. No. 1931	706.20	7/6/04 Inv. No. 2188	49.00
24	7/7/04 Inv. No. 1999	800.00	7/7/04 Inv. No. 2042	750.00
25	7/9/04 Inv. No. 1950	2,675.00	7/7/04 Inv. No. 2118	750.00
26	7/12/04 Inv. No. 1949	1,498.00	7/12/04 Inv. No. 2191	49.00
27	7/12/04 Inv. No. 1955	2,675.00		
28	7/14/04 Inv. No. 2096	299.00		

1	7/14/04 Inv. No. 2128	706.20		
2	7/14/04 Inv. No. 2130	1,498.00		
3	7/15/04 Inv. No. 1954	2,675.00		
4	7/16/04 Inv. No. 2052	706.20		
5	7/20/04 Inv. No. 2192	642.00		
6	7/21/04 Inv. No. 1932	660.00		
7	7/21/04 Inv. No. 1961	1,498.00		
8	7/21/04 Inv. No. 2075	1,400.00		
9	7/21/04 Inv. No. 2194	319.93		
10	7/26/04 Inv. No. 2065	4,066.00	7/26/04 Inv. No. 1929	1,000.00
11	7/28/04 Inv. No. 2190	706.20		
12	7/29/04 Inv. No. 1933	4,066.00	7/29/04 Inv. No. 2019	450.00
13	8/3/04 Inv. No. 1934	1,926.00		
14	8/3/04 Inv. No. 1960	1,926.00		
15	8/3/04 Inv. No. 2195	287.94	8/3/04 Inv. No. 2256	49.00
16	Subtotal CDN	<u>\$32,396.67</u>	Subtotal U.S. Dollars	<u>\$ 4,597.00</u>

17           12.    Plaintiffs are entitled to money damages from Defendants as specified herein.

18           13.    Defendants' Counterclaims: The Court concludes that Defendants have not  
19 provided sufficient evidence in support of their claims and/or defenses or affirmative defenses.

20 With respect to the first counterclaim for intentional interference with contract, the Court  
21 concludes that Collins had an employment contract that was in existence until July, 2004, and  
22 that it was "at-will" since no term was specified. Under either Nevada or Canadian law, the  
23 contract was terminable at the will of either party, so there was no intentional conduct as  
24 required to sustain such a claim.

25           14.    The second counterclaim for defamation is denied for lack of evidence.

26           15.    The third counterclaim for abuse of process is denied for lack of evidence.

27           16.    The fourth claim for civil conspiracy is denied for lack of evidence.

28    ///



1            17. The fifth counterclaim for an accounting has been satisfied by Defendant Collins  
2 filing for a writ of mandate in Clark County and getting the requested records inspection.

3            18. The sixth counterclaim for injunctive relief is denied because the injunction  
4 issued by Judge Griffin on December 9, 2004, was appropriate.

5            19. The Court concludes that all six of Defendants' Counterclaims shall be dismissed,  
6 with prejudice.

#### JUDGMENT

8            IT IS ORDERED AND ADJUDGED:

9            That Plaintiffs have proven their claims and damages by a preponderance of the  
10 evidence, and are therefore entitled to judgment in their favor, as summarized by the following:

11            A. From the damages for breach of fiduciary duty at page 14, above, the conversion  
12 factor(s)/exchange rates from Canadian dollars to U.S. Dollars as of 4/2/08 have been applied,  
13 as appropriate, as shown in Exhibit "A" hereto, which yields the sum of \$56,373.26 in damages  
14 in U.S. Dollars;

15            B. From the three categories of damages for conversion at pages 16-21, above, the  
16 conversion factor(s)/exchange rates from Canadian dollars to U.S. Dollars as of 4/2/08 have been  
17 applied, where appropriate, as shown in Exhibit "B" hereto (i.e., \$145,224.68 + 25,848.53 +  
18 36,430.22), and the sum of those three categories is \$207,503.43 in damages in U.S. Dollars.

19            Plaintiffs have been damaged by the actions of Defendants in the total amount of Two  
20 Hundred Sixty Three Thousand, Eight Hundred Seventy Six Dollars and Sixty Nine Cents  
21 (\$263,876.69) which has been calculated using the exchange rate from Canadian dollars to U.S.  
22 dollars as of 4/2/08.

23            The Defendants shall take nothing by way of any of their Counterclaims or any defenses  
24 or affirmative defenses to Plaintiffs' Verified Complaint, and all of those counterclaims and  
25 defenses of Defendants are dismissed, with prejudice.

26            Judgment is granted against Defendants and in favor of Plaintiffs on all of Plaintiffs'  
27 claims for relief.

28 ///

1 That Plaintiffs are entitled a money judgment from Defendants in the principal sum of  
2 \$263,876.69, in U.S. Dollars as of 4/2/08, together with interest thereon at the legal rate<sup>3</sup> from  
3 the time of service of the summons and complaint until the Judgment is satisfied, as part of this  
4 Judgment and in all executions issued thereon or any related collection actions that may be  
5 undertaken to collect this Judgment.

6 As prevailing parties, Plaintiffs are entitled to submit a memorandum of costs within 10  
7 days after entry of judgment. The bond premiums for the injunction bond may be one of those  
8 costs to be submitted.

9 Since the amount of costs will not be ascertained by the time this Judgment is entered, as  
10 contemplated by NRS 17.190, Plaintiffs shall submit a supplement or amendment to the  
11 Judgment for the Court's consideration after this Court rules on the issue of costs.

12 As prevailing parties, Plaintiffs may submit a motion for attorneys' fees if they provide  
13 the Court with authority allowing the same.

14 The Court will sign a separate order to be submitted by Plaintiffs to cancel, discharge, or  
15 exonerate the injunction bond that has been in place since December, 2004.

16 Plaintiffs may use any lawful means to execute on, or collect, this Judgment, in the  
17 United States and/or Canada.


18 That Defendants take nothing by way of their counterclaims in this action, which shall all  
19 be dismissed on the merits, with prejudice.

20 JUDGMENT SHALL BE ISSUED ACCORDINGLY.

21 Dated this 14th day of April, 2008.

22  
23   
24 \_\_\_\_\_  
DISTRICT JUDGE

25 <sup>3</sup>Pursuant to NRS 99.040(1), when there is no express contract in writing fixing a different  
26 rate of interest, interest must be allowed at a rate equal to the prime rate. See also NRS 17.130. The  
27 prime rates as ascertained by the Commissioner of the Financial Institutions Division for the time  
28 periods pertinent to this case are as follows: July 1, 2004 - 4.25%; January 1, 2005 - 5.25%; July 1,  
2005 - 6.25%; January 1, 2006 - 7.25%; July 1, 2006 - 8.25%; January 1, 2007 - 8.25%; July 1, 2007  
- 8.25%; January 1, 2008 - 7.25%.

 <b>BANK OF CANADA</b> <b>BANQUE DU CANADA</b>		
<b>6,486.07 CAD</b> (CAD = Canadian dollar)		
<b>Date:</b>	<b>USD = U.S. dollar (noon)</b>	<b>Exchange rate:</b>
02 Apr 2008	<b>6,373.26 USD</b>	<b>0.9826 (1.0177)</b>

If you have selected a weekend date, the nearest business dates are used instead.


Conversions are based on Bank of Canada "nominal rates", which are neither buying nor selling rates. Rates available from financial institutions will likely differ.

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Refer to p. 14 of the attached Findings of Fact, Conclusions of Law, and Judgment for Breach of Fiduciary Duty Damages:

cell phone bill	\$ 1,398.83
after-termination Jeep expenses	2,233.42
computer data analysis, etc.	2,136.85
Chubb Security	716.97
	<hr/>
	\$ 6,486.07 Canadian
converted to U.S. Dollars (see calculation above)	\$ 6,373.26 USD a/o 4/2/08
	50,000.00 USD
	<hr/>
	\$ 56,373.26

**EXHIBIT "A"**

 <b>BANK OF CANADA</b> <b>BANQUE DU CANADA</b>		
<b>147,795.16 CAD</b> (CAD = Canadian dollar)		
Date:	USD = U.S. dollar (noon)	Exchange rate:
02 Apr 2008	<b>145,224.68 USD</b>	<b>0.9826 (1.0177)</b>

If you have selected a weekend date, the nearest business dates are used instead.

Conversions are based on Bank of Canada "nominal rates", which are neither buying nor selling rates. Rates available from financial institutions will likely differ.

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Refer to first section of Conversion damages at pp. 15-19 in the attached Findings of Fact, Conclusions of Law, and Judgment:

Application of above exchange rate yields damages in U.S. Dollars shown, which is

\$145,224.68 in U.S. Dollars as of 4/2/08

**EXHIBIT "B"**

Page 1 of 3

 <b>BANK OF CANADA</b> <b>BANQUE DU CANADA</b>		
<b>26,306.05 CAD</b> (CAD = Canadian dollar)		
Date:	USD = U.S. dollar (noon)	Exchange rate:
02 Apr 2008	<b>25,848.53 USD</b>	<b>0.9826 (1.0177)</b>

If you have selected a weekend date, the nearest business dates are used instead.

Conversions are based on Bank of Canada "nominal rates", which are neither buying nor selling rates. Rates available from financial institutions will likely differ.

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Refer to second section of Conversion damages at p. 19, lines 18-26 and p. 20, lines 1-4, in the attached Findings of Fact, Conclusions of Law, and Judgment:

Application of above exchange rate yields damages in U.S. Dollars shown, which is

\$25,848.53 in U.S. Dollars as of 4/2/08

**EXHIBIT "B"**

Page 2 of 3

 <b>BANK OF CANADA</b> <b>BANQUE DU CANADA</b>		
<b>32,396.67 CAD</b> (CAD = Canadian dollar)		
Date:	USD = U.S. dollar (noon)	Exchange rate:
02 Apr 2008	<b>31,833.22 USD</b>	<b>0.9826 (1.0177)</b>

If you have selected a weekend date, the nearest business dates are used instead.

Conversions are based on Bank of Canada "nominal rates", which are neither buying nor selling rates. Rates available from financial institutions will likely differ.

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Refer to third section of Conversion damages at pp. 20-21 in the attached Findings of Fact, Conclusions of Law, and Judgment:

The \$4,597.00 is already in U.S. Dollars

Application of above exchange rate yields damages in U.S. Dollars on the \$32,396.67 CDN, which is

\$31,833.22 in U.S. Dollars as of 4/2/08

So the subtotal is	\$ 31,833.22
	+ 4,597.00
	\$ 36,430.22

**EXHIBIT "B"**

Page 3 of 3


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CERTIFICATE OF MAILING

I hereby certify that on the 14<sup>th</sup> day of April, 2008, I placed a copy of the foregoing Order in the United States Mail, postage prepaid, addressed as follows:

Donald A. Lattin, Esq.  
PO Box 30000  
Reno NV 89520

Hannah C. Irsfeld, Esq.  
9345 West Sunset Road #100  
Las Vegas NV 89148

  
Christine Erven, Judicial Assistant