



COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE

JOHN W. NOBLE  
VICE CHANCELLOR

417 SOUTH STATE STREET  
DOVER, DELAWARE 19901  
TELEPHONE: (302) 739-4397  
FACSIMILE: (302) 739-6179

August 14, 2009  
*Revised: August 17, 2009*

Daniel B. Rath, Esquire  
Rebecca L. Butcher, Esquire  
Landis Rath & Cobb LLP  
919 Market Street, Suite 1800  
P.O. Box 2087  
Wilmington, DE 19899-2087

Peter B. Ladig, Esquire  
Stephen B. Brauerman, Esquire  
Bayard, P.A.  
222 Delaware Avenue, Suite 900  
P.O. Box 25130  
Wilmington, DE 19899-5130

Re: Credit Suisse Securities (USA) LLC v.  
West Coast Opportunity Fund, LLC  
C.A. No. 4380-VCN  
Date Submitted: August 13, 2009

Dear Counsel:

Defendant West Coast Opportunity Fund, LLC (“West Coast”) has moved, in accordance with Supreme Court Rule 42, for certification of an interlocutory appeal from this Court’s order of July 30, 2009 (the “Order”).<sup>1</sup> The Order implemented the Court’s memorandum opinion of July 30, 2009, which declared that the Lockup

---

<sup>1</sup> Plaintiff Credit Suisse Securities (USA) LLC (“Credit Suisse”) does not oppose the motion. See Pl.’s Resp. to Def.’s Mot. for Certification of Interlocutory Appeal at ¶ 4.

Daniel B. Rath, Esquire  
Peter B. Ladig, Esquire  
August 14, 2009  
Page 2

Agreement executed by Gary Evans, the managing member and sole owner of Investment Hunter LLC, in his personal capacity, did not bind Investment Hunter, the owner of certain “Pledged Shares”<sup>2</sup> of GreenHunter, Inc.

The Order determined a “substantial issue” because it resolved the main question, a question of law, presented by this action. The answer to that question of law—the proper interpretation of the Lockup Agreement—establishes whether or not Credit Suisse is able to use the Pledged Shares to cover a margin call. If the Court had reached a contrary result, the litigation likely would have been terminated.

The Order also established a “legal right.” As a result of the Order, Credit Suisse now has the right to sell the Pledged Shares to meet its margin call, without regard to the limitations agreed to by Mr. Evans on any transfer of shares in GreenHunter, Inc. In short, West Coast has lost the benefits which it thought it had obtained through the Lockup Agreement.

Finally, the interests of justice would be served by appellate review at this time because, as noted, a contrary result would likely have terminated the litigation.

---

<sup>2</sup> *Credit Suisse Sec. (USA) LLC v. West Coast Opportunity Fund, LLC*, 2009 WL 2356881 (Del. Ch. Jul. 30, 2009).

Daniel B. Rath, Esquire  
Peter B. Ladig, Esquire  
August 14, 2009  
Page 3

According, for the foregoing reasons, an order will be entered certifying an interlocutory appeal.

Very truly yours,

*/s/ John W. Noble*

JWN/cap  
cc: Register in Chancery-K