

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00909-MSK-MEH

ZACHARY KRISTON,
AMERICAN ROYALTY CRUSADE,
KINGS COURT COMMAND, LLC, and
KINGS COURT COMMAND CORPORATION,

Plaintiffs,

v.

TONY PEROULIS,
HARRY PEROULIS,
DEL TURNER,
VENETIAN HOTEL OPERATIONS, LLC,
HUTCHISON & STEFFEN, LLC,
E. ROBERT SPEAR,
HARRAH'S ENTERTAINMENT INC.,
CLARK COUNTY DISTRICT ATTORNEY,
MICHAEL ACCARDI,
SANDRA RATANA, and
DARYLL ROSENBLATT,

Defendants.

RECOMMENDATION

Michael E. Hegarty, United States Magistrate Judge.

Pending before the Court is Plaintiff's Motion to Voluntarily Dismiss Plaintiff Entities with Request for Leave to Amend the Complaint [filed December 28, 2009; docket #168]. To the extent Plaintiff Kriston's Motion requests the Court to enter an order dismissing Plaintiffs American Royalty Crusade, Kings Court Command, LLC, and Kings Court Command Corporation for lack of representation, the Court **RECOMMENDS** Plaintiff Kriston's Motion be **GRANTED** as stated

herein.¹ To the extent Plaintiff Kriston's Motion requests the Court for leave to amend his Complaint, the Court enters a minute order contemporaneously with this Recommendation addressing such request.

This Court entered an Order to Show Cause on November 4, 2009, instructing Plaintiffs American Royalty Crusade, Kings Court Command, LLC, and Kings Court Command Corporation to show cause as to why they should not be dismissed from this action for failure to prosecute due to lack of proper representation. (Docket #102.) The Court stated the "long-standing rule that a corporation must be represented by an attorney to appear in federal court." *Tal v. Hogan*, 453 F.3d 1244, 1254 (10th Cir. 2006) (footnote and citations omitted). Moreover, a corporation cannot appear through a non-attorney corporate officer appearing *pro se*. *Harrison v. Wahatoyas, LLC*, 253 F.3d 552, 556 (10th Cir. 2001).

Plaintiff Kriston responded to the Order to Show Cause on November 13, 2009, indicating he was seeking counsel to represent the business entity Plaintiffs. (Docket #112.) The Court then set a deadline for entry of counsel at or before December 11, 2009. (Docket #113.) On December 11, 2009, Plaintiff Kriston requested an extension of time to retain counsel, which the Court granted

¹Be advised that all parties shall have fourteen (14) days after service hereof to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned. Fed. R. Civ. P. 72. The party filing objections must specifically identify those findings or recommendations to which the objections are being made. The District Court need not consider frivolous, conclusive or general objections. A party's failure to file such written objections to proposed findings and recommendations contained in this report may bar the party from a de novo determination by the District Judge of the proposed findings and recommendations. *United States v. Raddatz*, 447 U.S. 667, 676-83 (1980); 28 U.S.C. § 636(b)(1). Additionally, the failure to file written objections to the proposed findings and recommendations within fourteen (14) days after being served with a copy may bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *Niehaus v. Kansas Bar Ass'n*, 793 F.2d 1159, 1164 (10th Cir. 1986).

to December 28, 2009. (Dockets ##152, 155.) Plaintiff Kriston filed the present Motion on December 28, 2009, representing that “he has been unable to retain counsel for these entities” and requesting dismissal of the three business entity Plaintiffs without prejudice pursuant to Fed. R. Civ. P. 41(a)(2).

Accordingly, for the reasons stated above, to the extent Plaintiff Kriston’s Motion requests the Court to enter an order dismissing Plaintiffs American Royalty Crusade, Kings Court Command, LLC, and Kings Court Command Corporation for lack of representation, the Court **RECOMMENDS** Plaintiff Kriston’s Motion be **GRANTED** and Plaintiffs American Royalty Crusade, Kings Court Command, LLC, and Kings Court Command Corporation be dismissed from this action without prejudice.

Dated at Denver, Colorado, this 4th day of January, 2010.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty
United States Magistrate Judge