

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 11-cv-02918-RPM

JOHN ALEXANDER,

Plaintiff,

v.

KENNETH ADELBERG,

Defendant.

ORDER FOR DISMISSAL

John Alexander, payee on a note made by Woodmoor Pines Golf & County Club, LLC, and guaranteed by KDGC Holdings, LLC, seeks recovery from defendant, Kenneth Adelberg, for non-payment, relying on C.R.S. § 7-90-913(b). That reliance is mis-placed. The statute is a part of the Colorado Corporations and Associations Act dealing with the dissolution of domestic entities pursuant to § 7-90-908, with claims made pursuant to §§ 7-90-910 and 7-90-911 enforceable against an owner of the dissolved entity to the extent of the total value of the assets distributed to the owner in liquidation. The statute is not applicable because the assets of both maker and guarantor were sold to Tri-Lakes Golf, LLC, in a sale approved by the District Court, County of El Paso, Colorado, in the course of a receivership proceeding after that court ordered dissolution under statutory authority for judicial dissolution of corporations.

Additionally, the purchasing entity was a limited liability company in which the defendant has some ownership but has no liability for its obligations because of § 7-80-705. The defendant moved to dismiss this action for failure to state a claim for relief.

Pursuant to Fed.R.Civ.P. 12(b)(6), it is

ORDERED that the motion to dismiss is granted. This civil action is dismissed.

DATED: February 9th, 2012

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge