

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson**

Civil Action No. 12-cv-00869-RBJ

JOHN NIEMI,
ROBERT NAEGELE, III, and
JESPER PARNEVIK,

Plaintiffs,

v.

MICHAEL FRANK BURGESS,
ERWIN LASSHOFER,
INNOVATIS GMBH,
INNOVATIS IMMOBILIEN GMBH,
INNOVATIS ASSET MANAGEMENT SA,
LEXINGTON CAPITAL & PROPERTY INVESTMENTS, LLC, and
BARRY FUNT,

Defendants,

CREDIT SUISSE A.G.,

Nominal Defendant.

FINAL JUDGMENT

In accordance with the orders filed during the pendency of this case, including the Order Granting Motion for Entry of Final Judgment, entered August 23rd, 2013 by U.S. District Judge R. Brooke Jackson, and pursuant to Fed. R. Civ. P. 54(b) and 58(a), the following Final Judgment is hereby entered.

I. The Court reiterates its determination that there is no just reason for delay of the Lasshofer defendants' appeal(s) and directs entry of final judgment as to the Claims Five and Twelve against those defendants pursuant to Rule 54(b).

II. Final Judgment is hereby entered as to Count 5 (COCCA) in the amount of \$185,077,476, plus post-judgment interest at .14% per annum (the statutory rate set for the week of the date of entry of default judgment, pursuant to 28 U.S.C . § 1961(a)). The Court enters final judgment as to Count 12 (common-law fraud) in the amount of \$61,692,492, plus post-judgment interest at .14% per annum. Plaintiffs may collect up to \$185,077,476 (plus post-judgment interest) on Count 5. Plaintiffs may collect up to \$61,692,492 (plus post-judgment interest) on Count 12. Plaintiffs may not, however, collect more than \$185,077,476 (plus post-judgment interest) in total, that is, on the two counts combined. The judgment is entered in favor of John Niemi, Robert Naegele, III, and Jesper Parnevik, and against Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA, jointly and severally.

The Court further finds that:

- (1) Plaintiffs' Count 12, upon which judgment is hereby entered for \$61,692,492, states a claim for common-law fraud, which is a tort.
- (2) Judgment is being rendered on Plaintiffs' common-law fraud tort claim, Count 12, at the place where the Lasshofer Defendants committed fraudulent acts, making this Court's exercise of personal jurisdiction over Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA proper.
- (3) Judgment is being rendered on Plaintiffs' common-law fraud tort claim, Count 12, at the place of the injury resulting from the Lasshofer Defendants' fraud, also making this Court's exercise of personal jurisdiction over Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA proper.
- (4) Plaintiffs' Count 5, upon which judgment is hereby entered for \$185,077,476, is predicated upon tortious acts, i.e. fraud, committed by Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA.
- (5) Judgment is being rendered on Plaintiffs' COCCA claim, Count 5, at the place where the Lasshofer Defendants committed fraudulent acts, making this Court's exercise of personal jurisdiction over Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA proper.

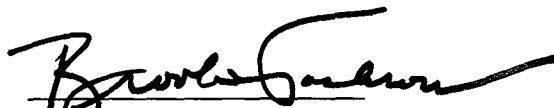
(6) Judgment is being rendered on Plaintiffs' COCCA claim, Count 5, at the place of the injury resulting from the Lasshofer Defendants' fraud, also making this Court's exercise of personal jurisdiction over Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA proper.

(7) Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management SA are not domiciled in Switzerland. Erwin Lasshofer is a citizen of Austria who, as of June 15, 2012, resided at Gaisbergstrasse 44c, 5020 Salzburg, Austria; Innovatis GmbH and Innovatis Immobilien GmbH are both Austrian corporations which, as of June 15, 2012, were located at Aigner Strasse 4a, 5020 Salzburg, Austria; and Innovatis Asset Management SA is a Panamanian corporation which, as of June 15, 2012, was located at 2nd Floor, East 53rd Street, Swiss Bank Building, Marbella, Republic of Panama.

In accordance with Fed. R. Civ. P. 58(b)(2), the Court hereby promptly approves and executes the form of the final judgment, and the designated Deputy Clerk of Court has likewise executed the judgment and shall promptly enter it. The file-stamped original final judgment will be made available in the Office of the Clerk upon execution of the final judgment by the Court and the designated clerk, to be surrendered in person to any of Plaintiffs' counsel of record. Contemporaneous to the surrender of the certified judgment (and payment of the requisite certification fee) and at the further request of the plaintiffs, and corresponding payment of the appropriate fees set by the Judicial Conference of the United States, the Office of the Clerk will issue an apostille on Administrative Office of the U.S. Courts Form 390, Apostille.

Dated at Denver, Colorado this 23rd day of August, 2013.

APPROVED BY THE COURT:


Judge R. Brooke Jackson
United States District Court

ENTERED FOR THE COURT:
JEFFREY P. COLWELL, CLERK

By: s/ Edward P. Butler
Edward P. Butler, Deputy Clerk