

**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.

ORDER

On August 6, 2014 the United States Court of Appeals for the Tenth Circuit issued an order directing the appellants to file within 30 days a copy of an order of this court dismissing the remaining claims with prejudice. The parties have expressed their positions on that matter and other matters pending in this court. Having considered all these filings, the court now issues the following orders:

1. Plaintiffs' claims other than the two claims that are the subject of this court's "Final Judgment" and the pending appeal (Counts Five and Twelve) are dismissed with prejudice.
2. "Plaintiffs' Motion to Require Lasshofer Defendants to Post Bond or Obtain Stay as Prerequisite to Appealing Final Judgment" [ECF No. 255] is denied. At this point the motion is essentially moot.
3. "Motion of Steese, Evans & Frankel, P.C. to Quash Subpoena" [ECF No. 257] is granted.
4. "Emergency Motion of Defendants Erwin Lasshofer, Innovatis GmbH, Innovatis Immobilien GmbH, and Innovatis Asset Management, S.A. to Dismiss with Prejudice All Remaining Claims and Request for Expedited Hearing" [ECF No. 267] is denied. This motion is moot.
5. "Cross-Motion for Dismissal with Prejudice Upon Conditions Pursuant to Fed. R. Civ. P. 41(a)(2)" [ECF No. 270] is denied. Plaintiffs asked the Lasshofer defendants to agree not to remove the \$6.8 million held in an Innovatis Credit Suisse AG account. The Lasshofer defendants refused. Plaintiffs then requested, as a condition for their agreement to the dismissal with prejudice of their remaining claims, that the court in substance order the Lasshofer defendants to transfer those funds to the custody of this court. As set forth above, the court has unconditionally dismissed the remaining claims with prejudice. Moreover, counsel for Credit Suisse gave this court their assurance that the funds they are holding for the Lasshofer defendants, namely what is believed by the plaintiffs to be \$6.8 million, would not be removed from the account. The court continues to rely on that assurance.

DATED this 29th day of August, 2014.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping horizontal stroke extending to the right.

R. Brooke Jackson
United States District Judge