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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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FSP STALLION 1, LLC, *et al.*,
Plaintiffs,
v.
MICHAEL LUCE, *et al.*,
Defendants.

Case No. 2:08-CV-01155-PMP-PAL

ORDER

AND ALL RELATED CLAIMS

The Court’s Order (Doc. #70) entered May 1, 2009, denying Defendants’ Motion to Dismiss Plaintiff’s Complaint (Doc. #47) adequately sets for the background of this action. On August 19, 2009, Plaintiffs filed an Amended Complaint (Doc. #320). Thereafter, the Parties engaged in extensive discovery. On May 17, 2011, the Court approved the stipulation of the Parties Dismissing Certain of the Parties’ Claims and Counterclaims (Doc. #444).

Currently before the Court are Defendant William T. Walters’ and Golf Club of Nevada, Inc.’s Motion for Summary Judgment (Docs. #449/455); Defendants Michael E. Luce, Joe R. Munsch, Fairway Signature Properties, LLC, Evergreen Alliance Golf Limited, L.P., and Stallion Mountain LeaseCo, LLC’s Motion for Summary Judgment (Doc. #447); Defendants Clay Womack, TIC Capital Markets, Inc., and Direct Capital Securities, Inc.’s Motion for Summary Judgment (Doc. #453); and Defendant Alliance Golf Limited, LP, and Stallion Mountain LeaseCo, LLC’s Motion for Summary Judgment on Plaintiffs’ Claim for Breach of Fiduciary Duty (Doc. #452).

1 Having considered the voluminous briefing of the Parties, and the arguments
2 presented at the hearing of August 11, 2011, the Court finds that there remain genuine
3 issues of material fact and witness credibility issues which warrant denial of the foregoing
4 Motions for Summary Judgment as to most of the claims remaining before the Court, and
5 now set for trial scheduled to commence December 5, 2011.


6 Specifically, the recent decision of the United States Supreme Court in Janus
7 Capital Group, Inc. v. First Derivative Traders, 131 Supreme Court 2296 (2011) supports
8 summary judgment in favor Defendants Clay Womack, TIC Capital Markets, Inc. and
9 Direct Capital Securities, Inc. as to Plaintiffs' First and Second Claims for Relief for
10 Federal Securities Fraud. Additionally, the Court finds Plaintiffs have failed to adduce
11 evidence giving rise to a genuine issue of material fact whether Defendant Evergreen
12 Alliance Golf Limited, L.P. owed a fiduciary duty to Plaintiffs sufficient to support
13 Plaintiffs' Eighth Claim for Relief. As to all remaining Claims, however, the Court finds
14 genuine issues of material fact grounded in part on credibility determinations to be made
15 by the trier of fact require denial of the Summary Judgment Motions now before the
16 Court.

17 **IT IS THEREFORE ORDERED** that Defendant Evergreen Alliance Golf
18 Limited, L.P.'s ("EAGL") Motion for Summary Judgment on Plaintiffs' Eighth Claim for
19 Breach of Fiduciary Duty (Doc. #478) is **GRANTED** as to that Defendant only.

20 **IT IS FURTHER ORDERED** that the Motion of Defendants Clay Womack, TIC
21 Capital Markets, Inc. and Direct Capital Securities, Inc. for Summary Judgment (Doc.
22 #453) is **GRANTED** only as to Plaintiffs' First and Second Claims for Federal Securities
23 Fraud.

24 **IT IS FURTHER ORDERED** that Defendants' Motions for Summary Judgment
25 (Docs. #449/455, #447, #453, and #452) are **DENIED** in all other respects.

26 DATED: August 16, 2011.

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PHILIP M. PRO
United States District Judge