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Nominal Defendant

8
 9 UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

10 MARTIN ARANZABE, Derivatively on)
 Behalf of LIVE VENTURES)
 11 INCORPORATED)
)
 12 Plaintiff,)
)
 13 v.)
)
 14 JON ISAAC, TONY ISAAC, RICHARD D.)
 BUTLER, JR., DENNIS (DE) GAO, and)
 15 TYLER SICKMEYER,)
)
 16 Defendants,)
)
 17 and,)
)
 18 LIVE VENTURES INCORPORATED,)
)
 19 Nominal Defendant.)
 20)

Case No. 2:17-cv-01632-KJD-VCF

**ORDER OF VOLUNTARY
 DISMISSAL WITHOUT
 PREJUDICE, PURSUANT TO FRCP
 41(a)(2)**

21 WHEREAS, on June 12, 2017, plaintiff Martin Aranzabe (“Plaintiff”) filed the above-
 22 captioned alleged shareholder derivative action (the “Action”) in this Court, asserting claims
 23 allegedly on behalf of Nominal Defendant Live Ventures Incorporated (“Nominal Defendant”)
 24 against Jon Isaac, Tony Isaac, Richard D. Butler, Jr., Dennis (De) Gao, and Tyler Sickmeyer
 25 (the “Defendants”) for breach of fiduciary duties and unjust enrichment;

26 WHEREAS, on August 23, 2017, Plaintiff filed a joint “Stipulation to Stay Case
 27 Pending Resolution of Securities Litigation” (ECF No. 10) (the “Stipulated Stay”) in this

1 Action, so-ordered by the Court on August 24, 2017 (ECF No. 12), pursuant to which all
2 parties to the Action stipulated to stay the Action until (1) an alleged securities class action
3 filed against the Defendants and Live Ventures Incorporated in this Court on May 5, 2017
4 (*Keith Kolish v. Live Ventures Incorporated, et. al.*, Case No. 17-cv-1258) (the “Securities
5 Litigation”) was dismissed with prejudice by the Court and all appeals had been exhausted; (2)
6 a motion to dismiss the Securities Litigation filed by the defendants in that case was denied; or
7 (3) either of the parties to the Stipulated Stay gave fifteen days’ notice that they no longer
8 consented to the voluntary stay;

9 WHEREAS, on November 3, 2017, the defendants in the Securities Litigation filed a
10 motion to dismiss that complaint for failure to state a claim;

11 WHEREAS, on November 17, 2017, prior to any decision by the Court on defendants’
12 motion to dismiss the Securities Litigation, all parties in the Securities Litigation filed a “Joint
13 Stipulation of Dismissal Without Prejudice,” so-ordered by the Court on November 20, 2017;

14 WHEREAS, on November 30, 2017, Defendants and Nominal Defendant, by and
15 through their counsel, filed a “Notice of Termination of Stipulated Stay” (ECF No. 15) in this
16 Action, informing the Court that Defendants and Nominal Defendant had given notice to
17 Plaintiff’s counsel fifteen days earlier that they no longer consented to the voluntary stay of the
18 Action, thereby terminating the Stipulated Stay pursuant to Paragraph 8 of that document;

19 WHEREAS, Plaintiff in this Action now seeks voluntarily to dismiss the Action without
20 prejudice to his or any other shareholder’s right to re-file the Action in the future; and

21 WHEREAS, neither Plaintiff nor his counsel has received any consideration for this
22 voluntary dismissal;

23 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between
24 the parties to this Action, through their undersigned counsel, that:

- 25 1. The Action is DISMISSED IN ITS ENTIRETY WITHOUT PREJUDICE; and

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