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6 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
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8 SHAWN VAN ASDALE, an individual, and LENA VAN ASDALE, an individual,
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Plaintiffs,
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vs.
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INTERNATIONAL GAME TECHNOLOGY, a Nevada corporation,
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13 Defendant.
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3:04-cv-0703-RAM

ORDER

15 Plaintiffs have filed an Objection to Application for Approval of Bond (Doc. #365). Defendant has Replied in Support of Application for Approval of Bond (Doc. #366).

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17 On June 21, 2011, Defendant filed an Application for Approval of Bond (Doc. #361) requesting that bond no. 0147946 in the amount of $4,643,240.44 (Doc. #360) be approved. On June 22, 2011, the Clerk's office filed the bond (Doc. #364).

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20 In their Objection to Application for Approval of Bond (Doc. #365) Plaintiffs rely on an unpublished district court case from the District of Colorado in which the court increased the amount of a supercedes bond in excess of the amount of the judgment. *U.S. for Use & Benefit v. Torix Gen. Contractors* (No. 07-cv-01355 (Colo. 6-6-2011).

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24 That case seems to be in conflict with the controlling law in the Tenth Circuit which generally holds that ". . . The purpose of requiring a supercedes bond pending appeal 'is to secure the judgment throughout the appeal process against the possibility of the judgment debtor's insolvency.' (citations omitted) Typically, the amount of the bond matches the full

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amount of the judgment (citations omitted)." *Olcott v. Delaware Flood Co.*, 76 F.3d 1538, 1559 (10th Cir. 1996). *See also, Strong v. Laubach*, 443 F.3d 1297, 1299 (10th Cir. 2006).

Both the *Olcott* and *Strong* cases also recognize that although the district court has discretion in setting a lesser amount it abuses its discretion in setting a greater amount.

The court agrees with the controlling Tenth Circuit authority and Plaintiffs' Objection to Application for Approval of Bond (Doc. #365) is **DENIED**. Defendant's bond in the sum of $4,643,240.44 (Doc. #360) is **APPROVED**.

DATED: July 20, 2011.

UNITED STATES MAGISTRATE JUDGE