

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SMART WIN INTERNATIONAL LIMITED,

Plaintiff,

- against -

EMPIRE ENERGY CORPORATION
INTERNATIONAL & MALCOLM BENDALL,

Defendants.

JOHN G. KOELTL, District Judge:

The complaint in this case invokes subject matter jurisdiction based on diversity of citizenship pursuant to 28 U.S.C. § 1332(a). The plaintiff appears to be a citizen of the British Virgin Islands and Hong Kong. (Compl. ¶ 2.) Defendant Empire Energy Corporation International appears to be a citizen of Nevada and Kansas. (Compl. ¶ 3.) The plaintiffs represent that defendant Malcolm Bendall is a citizen of Australia. (Compl. ¶ 4.)

It is well settled that "the presence of aliens on two sides of a case destroys diversity jurisdiction." Corporacion Venezolana de Fomento v. Vintero Sales Corp., 629 F.2d 786, 790 (2d Cir. 1980). In this case, the presence of the plaintiff, an alien corporation that is a citizen of the British Virgin Islands and Hong Kong, and defendant Mr. Bendall, an alien who is a citizen of Australia, appears to destroy complete diversity of citizenship jurisdiction.

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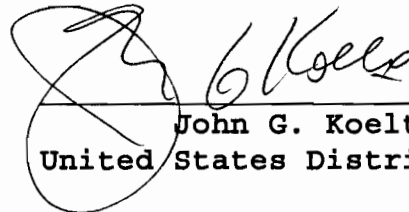
10 Civ. 5793 (JGK)

MEMORANDUM OPINION
AND ORDER

Therefore, the plaintiff is directed to show cause by August 23, 2010, why this case should not be dismissed without prejudice for lack of subject matter jurisdiction.

SO ORDERED.

Dated: New York, New York
August 5, 2010



John G. Koeltl
United States District Judge